

Austin, Texas, January 16, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 14, Regarding the employment of both man and wife of the same family in State Departments.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Acting Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, January 17, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 3, "An Act creating the Special Ninth District Court of Montgomery County, Polk County, and San Jacinto County, Texas; prescribing its jurisdiction; limiting its existence; fixing its terms; providing for the appointment of a Judge thereof; fixing his compensation; making an appropriation for the same; prescribing his powers and duties; providing for the transfer of cases from the Ninth Judicial District Court to said Special Ninth District Court and from said Special Ninth District Court to the Court of the Ninth Judicial District; providing for the appointment of an Assistant District Attorney, to prosecute cases in said Court; making an appropriation for his salary; providing for the District Clerks of Montgomery County, Polk County, and San Jacinto County and their successors in office to be the Clerks for the said Special Ninth District Court in their respective counties; providing a seal for said Special Ninth District Court; and to change and prescribe the time for holding District Court of the Ninth Judicial District of the State of Texas; and to conform all writs and processes of such Court to such changes; and to make all writs and processes issued or served before this Act takes effect, including recognizances and bonds, returnable to the terms of Court in the several counties in said District, as herein fixed; and to validate the summoning of grand and petit jurors and juries; and providing for the continuation of

Court in session in said District when this Act takes effect, to the end of its term; repealing all laws or parts of laws in conflict herewith; providing that if any Section of this Act be held unconstitutional or invalid for any reason, the same shall not impair or affect the remaining Sections or provisions; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

LINDLEY, Acting Chairman.

Austin, Texas, January 16, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 9, Providing for a Joint Session for the purpose of inaugurating Hon. W. Lee O'Daniel as Governor of Texas, and Hon. Coke R. Stevenson as Lieutenant Governor for the ensuing period of two years.

Has carefully compared same and finds it correctly enrolled.

LINDLEY, Acting Chairman.

SIXTH DAY

(Wednesday, January 18, 1939)

The House met at 1:45 o'clock p. m., pursuant to adjournment, and was called to order by Speaker Morse.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Burkett
Allen	Burney
Allison	Cauthorn
Alsup	Celaya
Anderson	Chambers
Bailey	Clark
Baker	Cleveland
of Fort Bend	Cockrell
Baker of Grayson	Coleman
Bell	Colquitt
Blankenship	Colson, Mrs.
Bond	Cornett
Boyd	Corry
Boyer	Crossley
Bradbury	Daniel
Bradford	Davis of Jasper
Bray	Davis of Upshur
Bridgers	Dean
Broadfoot	Derden
Brown of Cherokee	Dickison
Brown	Dickson
of Nacogdoches	Donaghey
Bundy	Dowell

Dwyer	Monkhouse
Faulkner	Montgomery
Felty	Morris
Ferguson	Newell
Fielden	Nicholson
Fuchs	Oliver
Galbreath	Olsen
Gilmer	Pace
Goodman	Petsch
Gordon, Mrs.	Pevehouse
Hale	Piner
Hamilton	Pope
Hankamer	Ragsdale
Hardeman	Reader of Bexar
Hardin	Reader of Erath
Harp	Reaves
Harper	Reed
Harrell of Bastrop	Rhodes
Harrell of Lamar	Riviere
Harris	Roach
Hartzog	Roberts
Heflin	Robinson
Holland	Russell
Howard	Schuenemann
Howington	Segrist
Hull	Shell
Hunt	Skiles
Isaacks	Smith of Frio
Johnson of Ellis	Smith of Hopkins
Johnson of Tarrant	Smith
Keith	of Matagorda
Kennedy	Spencer
Kern	Stinson
Kerr	Stoll
Kersey	Talbert
Kinard	Tarwater
King	Taylor
Langdon	Tennant
Lehman	Thornberry
Leonard	Thornton
Leyendecker	Turner
Little	Vale
Lock	Vint
Loggins	Voigt
London	Waggoner
Mays	Weldon
McAlister	Wells
McDaniel	Westbrook
McDonald	White
McFarland	Wilson
McMurry	Winfree
McNamara	Wright
Mohrmann	

Absent—Excused

Wood Worley

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain.

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence on account of important business:

Mr. Wood for today, on motion of Mr. Fielden.

Mr. Worley for today, on motion of Mr. Morris.

The following Member was granted leave of absence on account of illness:

Mr. McFarland for yesterday, on motion of Mr. Davis of Jasper.

FIXING ORDER OF BUSINESS IN THE HOUSE

Mr. Alsup moved that all necessary Rules be suspended for the purpose of making a motion to reconsider the vote by which H. S. R. No. 24A, Fixing the Order of Business in the House was adopted by the House on last Monday.

The motion to suspend the Rule prevailed by the following vote:

Yeas—135

Allen	Faulkner
Allison	Felty
Alsup	Ferguson
Bailey	Fielden
Baker	Fuchs
of Fort Bend	Galbreath
Baker of Grayson	Gilmer
Bell	Goodman
Blankenship	Gordon, Mrs.
Bond	Hale
Boyd	Hamilton
Boyer	Hankamer
Bradbury	Hardeman
Bradford	Hardin
Bridgers	Harp
Broadfoot	Harper
Brown of Cherokee	Harrell of Bastrop
Brown	Harris
of Nacogdoches	Heflin
Bundy	Holland
Burkett	Howard
Burney	Howington
Cauthorn	Hull
Chambers	Hunt
Clark	Isaacks
Cleveland	Johnson of Ellis
Cockrell	Johnson of Tarrant
Coleman	Keith
Colquitt	Kennedy
Colson, Mrs.	Kern
Cornett	Kerr
Corry	Kersey
Crossley	Kinard
Daniel	King
Davis of Jasper	Langdon
Davis of Upshur	Lehman
Dean	Leonard
Derden	Leyendecker
Dickison	Little
Donaghey	Lock
Dowell	Loggins

London	Segrist
McAlister	Shell
McDaniel	Skiles
McDonald	Smith of Frio
McFarland	Smith of Hopkins
McMurry	Smith
McNamara	of Matagorda
Mohrmann	Spencer
Monkhouse	Stinson
Montgomery	Stoll
Morris	Talbert
Newell	Tarwater
Olsen	Taylor
Pace	Tennant
Petsch	Thornberry
Pevehouse	Thornton
Piner	Turner
Ragsdale	Vale
Reader of Erath	Vint
Reaves	Voigt
Reed	Waggoner
Rhodes	Weldon
Riviere	Wells
Roach	Westbrook
Roberts	White
Robinson	Wilson
Russell	Winfree
Schuenemann	Wright

Absent

Anderson	Hartzog
Bray	Mays
Celaya	Nicholson
Dickson	Oliver
Dwyer	Pope
Harrell of Lamar	

Absent—Excused

Reader of Bexar	Worley
Wood	

Question then concurring on the motion to reconsider the vote, by which H. S. R. No. 24A was adopted, it prevailed.

House Simple Resolution No. 24A was then adopted by the following vote:

Yeas—134

Allen	Broadfoot
Allison	Brown of Cherokee
Alsup	Brown
Anderson	of Nacogdoches
Bailey	Burkett
Baker	Burney
of Fort Bend	Cauthorn
Baker of Grayson	Chambers
Bell	Clark
Blankenship	Cleveland
Bond	Cockrell
Boyd	Coleman
Boyer	Colquitt
Bradbury	Colson, Mrs.
Bradford	Cornett
Bridgers	Corry

Crossley	McFarland
Daniel	McMurry
Davis of Jasper	McNamara
Davis of Upshur	Mohrmann
Derden	Monkhouse
Dickson	Montgomery
Donaghey	Morris
Dowell	Newell
Dwyer	Olsen
Faulkner	Pace
Felty	Petsch
Ferguson	Piner
Fielden	Pope
Fuchs	Ragsdale
Galbreath	Reader of Erath
Gilmer	Reaves
Goodman	Reed
Gordon, Mrs.	Rhodes
Hale	Riviere
Hamilton	Roach
Hankamer	Roberts
Hardeman	Robinson
Hardin	Russell
Harp	Schuenemann
Harper	Segrist
Harrell of Bastrop	Shell
Harris	Skiles
Hartzog	Smith of Frio
Holland	Smith of Hopkins
Howard	Smith
Howington	of Matagorda
Hull	Spencer
Hunt	Stinson
Isaacks	Stoll
Johnson of Ellis	Talbert
Johnson of Tarrant	Tarwater
Keith	Taylor
Kennedy	Tennant
Kern	Thornberry
Kerr	Thornton
Kersey	Turner
Kinard	Vale
King	Vint
Langdon	Voigt
Lehman	Waggoner
Leonard	Weldon
Leyendecker	Wells
Little	Westbrook
Lock	White
London	Wilson
McAlister	Winfree
McDaniel	Wright
McDonald	

Absent

Bray	Heflin
Bundy	Loggins
Celaya	Mays
Dean	Nicholson
Dickson	Oliver
Harrell of Lamar	Pevehouse

Absent—Excused

Reader of Bexar	Worley
Wood	

Mr. Johnson of Tarrant moved to reconsider the vote by which the resolution was adopted, and to table the motion to reconsider.

The motion to table prevailed.

MESSAGE FROM THE SENATE

Austin, Texas, January 17, 1939.
Hon. Emmett Morse, Speaker of the House of Representatives.

Sir: I am directed by the Senate, to inform the House, that the Senate has passed the following:

H. C. R. No. 13, Providing for a Joint Session of the Legislature Wednesday, January 18, at 2 o'clock p. m., for the purpose of hearing Governor W. Lee O'Daniel deliver his message in person.

Respectfully,

BOB BARKER,

Secretary of the Senate.

APPOINTMENT OF DELEGATE TO ATTEND THE FOURTH GENERAL ASSEMBLY OF THE COUNCIL OF STATE GOVERNMENTS

The Speaker announced the appointment of Hon. Robert H. Wood as a delegate to represent the House of Representatives of the State of Texas, at the Fourth General Assembly of the Council of State Governments, meeting in Washington, D. C., January 18th to 20th, 1939.

COMMITTEE APPOINTED TO ESCORT THE GOVERNOR TO THE SPEAKER'S STAND

The Speaker announced the appointment of the following committee, on the part of the House, to escort the Governor to the Speaker's Stand for the purpose of delivering an address to a Joint Session of the House and Senate:

Messrs. Corry, Hale, Skiles, Pevehouse and Langdon.

ADDRESS BY HON. W. LEE O'DANIEL, GOVERNOR

(In Joint Session.)

In accordance with the provisions of House Concurrent Resolution No. 13, Providing for Joint Session of the House and Senate at 2:00 o'clock p. m., today for the purpose of hearing the message of Hon. W. Lee O'Daniel,

Governor, the Honorable Senators at 2:00 o'clock p. m., escorted by Hon. Bob Barker, Secretary of the Senate, and A. W. Holt, Sergeant-at-Arms of the Senate, were announced at the Bar of the House and, being duly admitted, occupied seats prepared for them along the aisle.

Lieutenant Governor Coke R. Stevenson was escorted to a seat on the Speaker's Stand.

Lieutenant Governor Coke R. Stevenson called the Senate to order.

Hon. R. Emmett Morse, Speaker, called the House of Representatives to order, and stated that the two Houses were in Joint Session for the purpose of hearing an address by Hon. W. Lee O'Daniel, Governor.

The Lieutenant Governor directed the Clerk to call the roll of the Senate:

The roll of the Senate was called and the following Senators were present:

Aikin	Moffett
Beck	Moore
Brownlee	Nelson
Burns	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Hardin	Small
Head	Spears
Hill	Stone of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield

A quorum of the Senate was announced present.

Speaker Morse directed the Clerk to call the roll of the House.

The roll of the House was called, and the following Members were present:

Mr. Speaker	Boyer
Allen	Bradbury
Allison	Bradford
Alsup	Bray
Anderson	Bridgers
Bailey	Broadfoot
Baker	Brown of Cherokee
of Fort Bend	Brown
Baker of Grayson	of Nacogdoches
Bell	Bundy
Blankenship	Burkett
Bond	Burney
Boyd	Cauthorn

Celaya	Loggins
Chambers	London
Clark	Mays
Cleveland	McAlister
Cockrell	McDaniel
Coleman	McDonald
Colquitt	McFarland
Colson, Mrs.	McMurry
Cornett	McNamara
Corry	Mohrmann
Crossley	Monkhouse
Daniel	Montgomery
Davis of Jasper	Morris
Davis of Upshur	Newell
Dean	Nicholson
Derden	Oliver
Dickison	Olsen
Dickson	Pace
Donaghey	Petsch
Dowell	Pevehouse
Dwyer	Piner
Faulkner	Pope
Felty	Ragsdale
Ferguson	Reader of Bexar
Fielden	Reader of Erath
Fuchs	Reaves
Galbreath	Reed
Gilmer	Rhodes
Goodman	Riviere
Gordon, Mrs.	Roach
Hale	Roberts
Hamilton	Robinson
Hankamer	Russell
Hardeman	Schuenemann
Hardin	Segrist
Harp	Shell
Harper	Skiles
Harrell of Bastrop	Smith of Frio
Harrell of Lamar	Smith of Hopkins
Harris	Smith
Hartzog	of Matagorda
Heflin	Spencer
Holland	Stinson
Howard	Stoll
Howington	Talbert
Hull	Tarwater
Hunt	Taylor
Isaacks	Tennant
Johnson of Ellis	Thornberry
Johnson of Tarrant	Thornton
Keith	Turner
Kennedy	Vale
Kern	Vint
Kerr	Voigt
Kersey	Waggoner
Kinard	Weldon
King	Wells
Langdon	Westbrook
Lehman	White
Leonard	Wilson
Leyendecker	Winfree
Little	Wright
Lock	
Wood	Absent—Excused
	Worley

A quorum of the House was announced present.

At 2:05 o'clock p. m., Hon. W. Lee O'Daniel, and party escorted by Senators: Martin, Small, Winfield, Pace and Brownlee, Committee on the part of the Senate, and Messrs. Corry, Hale, Skiles, Pevehouse and Langdon, Committee on the part of the House, was announced at the Bar of the House, and being admitted, was escorted to a seat on the Speaker's Stand.

Speaker Morse then presented Lieutenant Governor Coke R. Stevenson, who in turn introduced Governor W. Lee O'Daniel.

Governor O'Daniel addressed the Joint Session as follows:

To Members of the Forty-sixth Legislature:

During my campaign for the office of Governor, I advocated a liberal policy in meeting the obligations of the State of Texas for the aged of this State. I said then and I believe now that when the State of Texas adopted the amendment authorizing the payment of old age pensions, that the citizens thereby assumed an obligation to pay these pensions and in my judgment I believe that the most important problem now facing the Texas Legislature is the discharge in full of the obligation which the voters of this State assumed at that time.

May I at this time point out this fact: whatever obligation the State has to pay old age pensions is not an obligation which I have created. The amendment to provide for the payment of old age pensions was written into the Constitution of this State long before I had any part in public life. In my campaign for Governor, at every opportunity I expressed the belief that this obligation of the State should be met and I am determined to do everything in my power to see that this obligation is met in full.

The opinion has been expressed to me by some Members of the Legislature and I suspect that the opinion is held by others who have not expressed it, that when I championed the cause of old age pensions in my campaign for Governor, I automatically assumed the responsibility of recommending to the Legislature how this obligation should be met and how the money to meet the obligation should be raised. I think there is

merit in this contention and I have no desire to shirk this responsibility. Accordingly, after the most careful study that I could give, I have prepared and submit to you with this message a plan for dealing with the whole question of old age pensions.

As your Governor, I think I realize and I accept without equivocation all of the responsibilities of this office in dealing with this as with other important questions. And it is with the thought of discharging honestly and fully this obligation that I submit to you in detail my recommendations concerning this question. I am not unmindful of the fact that when these recommendations pass into your hands, under the Constitution of this State the responsibility then rests upon you to determine the merit of the plan which I have proposed and to submit a better plan if, in your judgment, a more workable plan for meeting the obligation of the State for the old people of Texas can be written into the law. I shall respect in every detail the rights and responsibilities of the legislative branch of this Government, and I pledge you now my full cooperation in dealing with this most important question. Please accept this statement as one made in all sincerity. Please accept it as meaning what it says.

I know of no better way and I know of no more direct method of assuming my obligation as Governor and of discharging that obligation with reference to how this old age pension problem shall be solved, than by submitting to the Legislature a bill which, in my judgment, would accomplish this purpose. And you will find attached to this message and made a part of it, a bill which, in my judgment, represents the best method of dealing with this problem.

Before entering into any discussion of the provisions of this bill, may I say that we are seeking here to solve the problem that has been the most difficult problem confronting every regular and every called session of the Legislature since the pension amendment was adopted. And because of the importance of this problem, I am hopeful that you, as Members of the Legislature, and I, as Governor, may approach it not in the light of controversy, not in the light of criticism of what has gone before, but rather as a united force charged

with the responsibility of representing all of the citizens of Texas, and bringing to the solution of this problem all of the information we have been able to accumulate, with the hope that the solution reached will meet in full every obligation of Texas to the aged of this State and will at the same time be sound legislation from the viewpoint of our entire citizenship.

It is possible, under the plan I am offering you now, with the cooperation of the Federal Government to guarantee to every person 65 years of age in this State, who is otherwise qualified, an income of at least \$30 per month. And I assure you that after studying this whole pension problem, studying the constitutional limitations which we have in Texas, the limitations of the National Social Security Act, studying the current tax burden of the citizens of this State, that I am submitting to you the plan which I believe is the best plan that the Legislature can adopt to solve this important problem, because in dealing with this problem the State faces three definite limitations: first, the State Constitution provides that in no case shall payment to an individual pensioner exceed \$15 per month; the second limitation lies in the fact that the payment of old age pensions in Texas is a part of the National plan set up under the provisions of the National Social Security Act; therefore, if we are to retain the support of the Federal Government, the Texas law must conform to the broad fundamental principles laid down in the Federal law. The third limitation which we must consider is the ability of the taxpayers of Texas to pay more taxes.

Since I was nominated Governor I have spent much of my time in making a careful, detailed study of all of the provisions of the National Social Security Act and the plan which I am recommending to the Legislature is, in my judgment, the most liberal pension plan that we could hope to secure and still maintain the cooperation of the Federal Government in the matter of paying old age pensions. Furthermore, if the Legislature follows my recommendations, the pension bill will guarantee an income of \$30 per month to every old person who meets the requirements of the pension law as to age, residence, etc. I believe that if we can pass

a pension bill which will guarantee these old folks in Texas an income of \$30 per month and at the same time provide the money to pay it, we will have met in full the obligations of the State.

In all of my advocacy of the payment of pensions to the old people of Texas, I have realized that this meant spending more public money. I have realized that to get this money it would be necessary either to levy new taxes, to drastically reduce State expenditures, to work out a more effective plan of levying and collecting taxes from already existing sources to the end that there would be additional revenue made available from already existing tax levies, or that the new money must be found by applying a combination of all the above suggestions. It is all right for the youngsters to believe in Santa Claus about Christmas time, but there is no Santa Claus in meeting government obligations. If we are to care for those of our citizens 65 years of age, who have been unfortunate in life and who are not able to care for themselves, then you and I who have not reached that age, must pay more in taxes to provide this service, and I believe we should approach the problem from this sensible viewpoint.

If the constitutional amendment which I recommend is adopted, we shall then have in the Constitution of this State a guarantee of an income of \$30 per month to every person 65 years of age and over, who meets the other requirements of the Act as to residence, etc., and a guarantee that the money will be raised each year to pay these pensions. Such an amendment will remove the question of old age pensions from the field of partisan politics, thereby protecting the pensioners as well as the taxpayers from the whims and fancies of all who would seek to make a political football out of the pension question. And the bill attached will make effective the proposed constitutional amendment.

I do not believe that the ownership of property should prevent an old person, otherwise qualified, from receiving an old age pension. To use an extreme illustration: a millionaire without an income would certainly not be a profitable customer. I am persuaded that there are many cases in Texas where old people have property of a potential value of several

thousand dollars but who are possibly in actual want. I do not believe that such persons should be forced to sacrifice their property at a forced sale; and for that reason the bill which I am submitting to you does not prevent a man from receiving a pension simply because he owns property.

Based on the studies which I have made, I am convinced that it is unsound public policy to refuse to grant old persons a pension simply because perchance they may have a son or daughter able to care for them. To attempt to place the responsibility on the children will, in my judgment, in many cases, result in forcing the children and their families sometimes to go without the necessities of life in order that the parents may be kept from absolute want. Therefore, in the bill which I have submitted the granting or the refusal of a pension has been based on the economic status of the old person and not on the economic status of the children.

In studying the National Social Security Act and in studying laws enacted by other States, you are impressed, I am sure, as I have been with the fact that the Federal Government has set up \$15 per month as the limit it will pay in a cooperative plan of carrying one-half of the cost of old age pensions in the various States. I have been impressed with the fact that in a great majority of cases the States likewise have set up a limit of \$15. I have examined much information issued by the Federal Government on costs of living and I have reached the conclusion that it was in the minds of those who made the original study that \$30 per month was a reasonable income to enable an old person to live in comfort and decency. I know that it is sometimes said that those past the age of 65 can live cheaper than those of less mature years. But the obvious fact is that from the age of 65 until death, there are hundreds, and I will say thousands of instances, where if the person is to have the care and attention which he should have, the cost of living is in excess of that of a person of less mature age.

I have, therefore, reached the conclusion that we should, if it is possible, provide in this bill a guarantee that every old person in Texas will have a certain income of at least \$30 per month, and whatever the person lacks of having such an income should

become the joint responsibility of the State and the Federal Government and should be provided by them. The bill which I am submitting to you proposes, with the cooperation of the Federal Government to guarantee an income of \$30 per month to the aged of this State who are eligible to receive old age pensions.

There may be those who will contend that \$30 a month is not enough. There may be others who will contend that \$30 a month is too much. But it does seem to me that the experience which we have had in Texas up to the present time and the almost universal disapproval of the manner in which old age pensions have been handled in Texas, can be traced directly to the failure of the present law to state in definite terms who shall receive pensions and how much. The National Social Security Act provides that pensions shall be paid to the needy aged, but it leaves it to the Legislature to define the term "needy" and I think it should be defined. I think it should be defined so that it cannot be misunderstood. In the bill which I am submitting, you will note that a needy person is defined as one who does not have an income of \$30 per month, and it definitely provides that it should be the joint responsibility of the State and the Federal Government to supplement the income of the aged so as to bring that income up to the \$30 level. For instance, under this bill a person 65 years of age, otherwise qualified, who has no income, would receive \$15 from the State and \$15 from the Federal Government; if he had an income of \$10, he would receive \$10 from the State and \$10 from the Federal Government, leveling the income at \$30; if he had an income of \$15, he would receive \$7.50 from the State and \$7.50 from the Federal Government, again leveling his income at \$30.

I believe this is a fair method of determining need. I believe it comes clearly within the limitations of the National Social Security Act, that it establishes a sane standard of paying pensions, and that it is fair to the taxpayer and fair to the pensioner.

There are those of our citizens and possibly Members of our Legislature who oppose the payment of any pensions as a matter of principle, and I have full respect for the honest convictions of anyone, even though I may disagree with them one hundred per

cent. But, as I see it, the question of whether or not Texas is to pay pensions was decided when we adopted the amendment authorizing the payment. The only question we have before us now is how we are going to do this job.

According to the plain provisions of the National Social Security Act, if we are to maintain Federal support, the pension must be based on need and if it is based on need, somebody must define need; either the Legislature must define it or some clerk must visit each of these persons who are applicants for pensions and then make a broad general guess as to whether or not he thinks pensions are needed. As between the two, certainly, I think, it is preferable for the Legislature to write its own decision as to what shall constitute need.

Now based upon this assumption, I have suggested that the State out of its own funds guarantee 50c per day or \$15 per month to old people who have no income. I have suggested that if the old person has an income of some amount that the State supplement this amount enough to make 50c per day. Certainly no person could call this a wild pension plan. But on the other hand, it is, I believe, the most liberal plan that would meet the requirements of the National Social Security Act. Now the Legislature may be able to write a more acceptable and a more definite definition of need than I have proposed and if a better one can be found, I am sure we all would like to have it. But I do most urgently insist if the Legislature discards the definition of need which I have suggested, that they substitute another in its place that is just as definite and one that cannot be misunderstood. Let us not leave the old people of this State dependent upon the judgment of some 25-year-old clerk, traveling at the expense of the State and guessing at what constitutes need. If we, the Governor and the Members of the Legislature, cannot define need so that it will mean one thing and not two things, how may we reasonably expect a clerk to perform the job.

You will note the plan which I am submitting to you proposes that out of the funds raised, there shall be set aside annually an adequate amount of money to meet the obligation of

the State for dependent children, to pay Confederate pensions, and to meet the obligation of the State for teacher retirement. These are definite, specific obligations which the voters of this State by constitutional amendment authorized and the obligations must be met. And I think it definitely desirable that the means of meeting these obligations be written into the Constitution of this State. I am thoroughly convinced that such matters should not be left to the whims of changing Governors and changing Legislatures. I have not included aid to the blind for the reason that here you deal with a physical handicap which in itself establishes a limitation as to those who shall receive aid and I believe it can be more wisely handled by direct appropriation out of the General Fund by each succeeding Legislature.

Now with reference to the tax provisions of this bill. The easy method for me to follow would be to submit to the Legislature a list of all of the various and sundry taxes that might be levied and express the pious hope that you would find the right one. But it does not seem to me that this is the business way to approach the problem. I have made a diligent study of many suggested means of raising the necessary revenue to pay old age pensions and I recommend that the money be raised by the levying of a 1.6% transaction tax, because I believe that this will give the broadest possible base from which to secure this revenue. A transaction tax, such as I recommend, is applied alike to every line of business and industry. It does not pick out manufacturing and levy a tax on that to the exclusion of wholesaling and retailing. It does not exempt the producing industries which are largely our natural resource industries. It does not centralize all of the tax raising within the retail industry, as would be done by a retail sales tax. It is my opinion that the best interests of the State generally would be served if our producing or natural resource industries, our manufacturing, our wholesaling, our retailing, and our service industries all bear a part of this tax burden.

The revenue could be raised by a three or four per cent retail sales tax. But I am definitely opposed to a retail sales tax for the following

reasons: It would take a three or four per cent retail sales tax to get the money, whereas a one and six-tenths per cent transaction tax levied on all industries will produce the necessary revenue. I do not believe that it is fair to single out the retail industry and make that industry alone responsible for collecting all this revenue and place this tax exclusively on the purchases of consumable goods and at the same time exempt many business transactions which are far more profitable than retailing.

This represents my recommendation as to how the money to pay old age pensions can be raised. I realize, of course, that it is within the province of the Governor to recommend, but it is finally for the Legislature to determine whether or not they believe that the recommendations of the Governor are wise. The Legislature may in its wisdom discover a better method of raising this revenue. If a better method can be found, I am perfectly willing to accept it.

There are, of course, a number of methods whereby the necessary amount of revenue could be raised. It has been suggested that this money be raised exclusively by a tax on oil. If we should attempt to do this, it would require probably an additional eight cents per barrel tax, supplemented by similar increases in the taxes on sulphur and other natural resources. I have not recommended this tax to the Legislature for the reason that I believe it would be unwise to attempt to raise this amount of money for this purpose from our natural resource industries.

I considered carefully the proposal to levy a flat gross receipts tax on oil, sulphur, insurance companies, public utilities, and other major lines of business and I reached the conclusion that if this character of tax were levied, it would preclude writing the tax into the Constitution because of the numerous exceptions and variations which it would be necessary to have if such a plan of raising the revenue was to be made workable. This plan possesses the further disadvantage, I think, of not providing a sufficiently broad tax base.

If a net income tax at approximately double the Federal rate should be levied in Texas and the exemptions placed at a lower rate, this would provide sufficient revenue to pay old

age pensions. But, as I see it, this plan is subject to two criticisms: one is that the Federal Government is now occupying the income tax field and has increased rather drastically income taxes during the last few years. A State income tax levied at a rate high enough to meet the needs for the purpose under consideration would, in my judgment, serve as a break against bringing new industries to our State and developing new sources of employment for our citizens.

It has been suggested that the money be raised by a low rate gross income tax. A gross income tax of one and one-half per cent would probably produce the amount of revenue needed to pay old age pensions and I think a gross income tax levied at a low rate has many things to recommend it. But if the tax is studied in all its details, it reveals some very definite disadvantages. Of one thing I am certain. If the Legislature elects to utilize the gross income tax as a means of raising revenue to pay old age pensions, then the tax should be levied on the gross income of every line of business and industry alike. Certainly such provisions as selecting specific industries and providing that in their cases "gross income" should mean "gross earnings" while in other industries levying the tax directly on all gross income, is unfair discrimination in favor of one industry as against other industries. My recommendation, therefore, would be that if the Legislature should decide to utilize the gross income method as a means of paying old age pensions, that it be levied at a flat rate and apply to all industries alike.

It is my deliberate judgment that the transaction tax is the best means of raising the money. But I have no desire to even attempt to dictate to the Legislature how this task shall be accomplished. It is for you gentlemen to determine and you might prefer any one of the above mentioned tax plans to the one I propose. Of one thing I am certain. We have an obligation to the aged of this State to meet; that obligation was incurred at the time the constitutional amendment which we now have in the Constitution was adopted, and the obligation must be met. I think it is the most important task facing the State

today. I think it is desirable that we meet it with a reasonable tax plan. But I think it imperative that the money be raised by some method to discharge this obligation.

I am definitely of the opinion that we should write into the Constitution of this State a provision abolishing all State ad valorem taxes. And I submit this problem to you at this time because if we adopt a transaction tax as a means of financing old age pensions, teacher retirement, and aid for destitute children, then we will release more than \$10,000,000 (millions) revenue now being used to pay old age pensions which revenue can be diverted to the purpose of replacing all of the State ad valorem tax now being collected for our schools and a sufficient portion of that being collected for the General Fund to enable us through economies to avoid the necessity of levying any replacement taxes for the State ad valorem tax abolished. In light of the fact that this proposed plan to abolish the State ad valorem tax is dependent upon the new plan to finance the pension fund, the teacher retirement fund and the aid for destitute children, it becomes proper, in my judgment, that these propositions be submitted to the people in one constitutional amendment because each proposition is dependent upon the other.

The report of the Comptroller of Public Accounts for 1937 shows that excluding the ad valorem tax, the State of Texas collected in taxes, permits and fees, in round figures, \$92,000,000 (millions). The report of the State Auditor for the same year shows there was collected by the various local units of government in this State, in round figures, \$114,000,000 (millions) from ad valorem taxes and that to this should be added \$20,000,000 (millions) State ad valorem taxes collected, making a grand total of \$134,000,000 (millions) collected from ad valorem taxes for State and local government in the year 1937. While, as already stated, \$92,000,000 (millions) was collected in the form of taxes, permits and fees from all other sources combined. This means that approximately 60% of the money collected in the form of taxes to carry on State and local government in Texas comes from ad valorem taxes. And I think the amount is tremendously excessive. I think this is far

more than the share of State and local government cost which should be collected from ad valorem taxes levied on the business property, homes and farms of this State. I do not think that the revenue producing power of real property is sufficient to enable it to carry such a heavy tax burden and, therefore, it is my opinion that ad valorem taxes should be reduced.

It will be necessary for the funds now allocated to old age pensions to remain in that fund until January 1, 1940, because the machinery for collection of the transaction tax cannot be set up and the revenue made available without caring for a transition period between September 1, and January 1. But if the proposed constitutional amendment is adopted to finance old age pensions, all current old age pension revenue will be released as of January 1, 1940.

You will observe from the draft of the bill and the proposed constitutional amendment attached, I am proposing that all of the revenue derived from the current tax on cigarettes be transferred to the Available School Fund as of January 1, 1940, and you will also note that I am proposing that the abolition of the State ad valorem tax be made effective January 1, 1941, and that all taxes due on or before that date be paid. This will mean that in 1940 and in 1941 the schools will receive the ad valorem tax which they are now receiving and, in addition, both years they will receive all of the cigarette tax, which will mean a net increase to the school revenue during these two years of the amount of revenue diverted from the cigarette tax which will be approximately \$9,000,000 (millions).

This plan will also divert, in round figures, \$5,000,000 (millions) of the revenue now going into the Old Age Pension Fund to the General Fund as of January 1, 1940. The General Fund will continue to receive the ad valorem taxes through the year 1940 and the year 1941, thereby providing \$5,000,000 (millions) new revenue during each year of this biennial period.

Now out of this \$10,000,000 (millions) new revenue it will be necessary to make sufficient appropriation to meet the obligation of the State, assumed by the people when they voted the constitutional amend-

ment providing aid for the blind. The cost should not exceed \$300,000 per annum, for aid to the blind. This would leave a net gain in General Fund revenue from the source above mentioned of \$9,400,000 (millions) during the biennium.

It should further be considered in this connection that if this plan is put into effect, the State will continue for several years to collect delinquent ad valorem taxes. At the present time there is outstanding in Texas, in round figures, \$22,000,000 (millions) of ad valorem taxes due to the State. If we abolish the State ad valorem tax as of January 1, 1941, certainly these delinquent ad valorem taxes should still be collected, because it would be unfair to those taxpayers who have paid, to reward those who have not paid by cancelling this \$22,000,000 (millions). I shall, therefore, at a later date suggest to the Legislature means whereby I believe the major portion of these delinquent State ad valorem taxes can be collected.

Now then with the fact in mind that all of the bread bonds, except \$5,000,000 (millions), will have been retired in 1941 and in view of the further fact that after meeting the cost of aid to the blind, there would still be from the taxes which we are planning to divert to the General Fund approximately \$9,400,000 (millions) each biennium. In view of the further fact that the State will still have more than \$22,000,000 (millions) of delinquent ad valorem taxes to be paid into the General Fund, I see no reason why there should be any difficulty prior to 1942 in reducing the State expenditures to a sufficient amount that the deficit in the General Fund may be substantially reduced, and the fund at an early date placed on a current cash basis, without the necessity of levying any replacement taxes for the ad valorem taxes abolished.

There are, in my judgment, many reasons why we should abolish the State ad valorem tax. Experience of the past proves that this is a very expensive tax to collect. Certainly experience proves that as the matter now stands, there is absolutely no uniformity in assessment and collection of this tax. No two counties in the State follow anything like the same procedure. So it seems to me

that we are faced with this situation: There is only one way where we could be assured that the property in all counties in this State was rendered on an equal basis and that would be to take away from the Commissioners' Court of this State the power which the Constitution now gives them to sit as boards of equalization in fixing the value of property and place all of this power and authority in the hands of a State tax board. And it seems to me that to take away from local units of government the power to assess and collect taxes and to fix values, would be very undesirable. And I do not believe that the average taxpayer or the average home-owner in Texas wants to be called on to go to Austin to defend his property against unreasonable assessment and unreasonable value. But I think we can all see that this is exactly what we would have to do if we were to attempt to maintain the State ad valorem tax and bring about any semblance of uniformity.

I know it is said by some that the homestead valued at less than \$3,000 is already exempt from the State ad valorem tax but to those who feel that these homes would not be affected, I would like to call their attention to this fact: Whenever you place in the hands of a State Board the power to value property throughout the State for tax purposes, the thing that apparently must be done if a State ad valorem tax is maintained, this power will extend and will cover all property in the State. And under any such plan of State control, lifting property to a one hundred per cent value, at least half of the homestead exemptions which we now have would be wiped out. Furthermore, such a plan of State control would, of course, extend to all of the personal property owned by those whose homesteads might still be exempt. Another matter which I think is of vital importance lies in this fact: If you put the power to value property in a State Board and if such State Board should raise all property to 75% or 100% of its value, is there any doubt in your mind that the counties, cities and road districts would not all immediately accept and levy their taxes on this increased valuation? The result would be that for every dollar the State added in ad valorem taxes because of this increased valuation,

the counties and other local units of government would probably add three or four dollars.

I have studied this question enough to become convinced that Texas simply cannot with any degree of fairness, go on with the State ad valorem tax being assessed and collected as it is on the present basis. In one county you will find automobiles rendered at one value, in another county you will find them rendered at an entirely different average value, and in another county you will find practically no taxes on them. The same thing is true with reference to livestock. The same thing is true with reference to stocks of goods of merchants and manufacturers. I think, therefore, that no fair-minded man will question the fact that if we decide we are going to keep the State ad valorem tax as a part of our tax system, then we should submit an amendment to the Constitution to the people that will take away from the Commissioners' Court the power to act as a board of equalization and would place in a State Board final authority to fix all tax values in the State. The job simply cannot be done with equity to all by any other method. But I am convinced that a far better plan would be to simply eliminate the ad valorem tax as a means of raising State revenue, thereby doing away with the necessity for taking away from local units of government the power to assess and collect taxes, which I believe, if each is left to handle its own affairs, can be handled far better by them than they would be by a centralized tax board sitting at Austin.

I do not believe that the stockmen of this State want to come to Austin to satisfy some theoretical tax board as to the value of white-faced calves; or that the merchants of Texas want to come to Austin to defend the value of their inventories; or the farmers want to come to Austin to defend the value of a sandy-hilled tract of land. The big corporations of the State have the necessary machinery which would enable them, probably to take care of their interests under such a system. But I think it would fall very heavily on the small taxpayer who does not maintain a staff of attorneys or tax experts to represent his interests.

But bad though such a system would be, it is my judgment that the time is here now for the State to establish such a system and at least bring some semblance of equity in the assessment and the collection of ad valorem taxes in the State, or to simply wipe the ad valorem tax off of the State tax system and leave it to the local units of government. I strongly prefer, as a choice between the two, the abolition of the State ad valorem tax. It is my opinion that anyone who opposes the abolition of the State ad valorem tax on the theory that small homes are now exempt from this tax, will be taking a very near-sighted view of the situation, and they will be ignoring the fact that the alternative which the State is going to be forced to follow, if it maintains the ad valorem tax, will probably result in increasing the local taxes paid by every small homeowner in Texas, because I think we can all be assured that whenever you place in the hands of a State Board the authority to fix these tax values, the average tax values in Texas will be at least doubled and every local unit of government in Texas will then levy local taxes on a basis of the increased valuation. I think, therefore, that in view of the fact that even with the State ad valorem tax wiped off the State would still be collecting more than half of all the revenue it uses to defray the cost of State and local government from ad valorem taxes, certainly would indicate that the simple procedure and the procedure which would most likely result in equity to all, would be to abolish the State ad valorem tax entirely.

There is another phase of this question which I think should be considered. Local units of government are clamoring for aid from the State. It seems to me that one of the best methods that the State could adopt to aid local units of government, would be to get out of the field of ad valorem taxes. I am opposed in principle to the general idea of the State appropriating money and turning it over to local units of government to spend. I think it encourages extravagance. I think it causes people to measure the value of our public servants by the amount of money they can get out of the State, rather than by some sound standard. But here is one way we can release to

the local units of government a source of revenue, but at the same time leave on these local units of government full responsibility for raising their own taxes and paying their own bills.

The ad valorem tax is a good source of raising money for local units of government because the problem is close enough home that it can be reasonably well administered. But the ad valorem tax as a means of raising revenue to operate the State Government, to my way of thinking, is completely out of date. The abolition of the ad valorem tax brings into consideration another matter. The State has in the past remitted all or a part of State ad valorem taxes to certain areas within this State and in some cases these areas have incurred debts to be retired out of ad valorem taxes. Therefore, in abolishing the State ad valorem tax, provision should be made for the State ad valorem tax to continue to be levied in these areas and all of the proceeds, less the cost of collection, to be returned to the areas in which they are collected until such time as the indebtedness incurred has been retired and no longer.

As I have already stated, the citizens of Texas when they adopted the constitutional amendments authorizing the payment of old age pensions, placed their stamp of approval upon this procedure. And I for one believe that the obligation which we have assumed, should be met in full. But I believe that all thoughtful citizens realize that any governmental process which results in paying to any particular class of our citizens money out of the State Treasury, is surrounded with many dangers and is subject to many abuses. The demagogues and the pension racketeers may seek in Texas, as they have sought in other States, to provide unreasonable and lavish expenditures for these purposes, and seek to promote these expenditures on the fallacy that the money to pay these pensions will all be collected from some particular class.

In my opinion in levying the tax to meet these obligations it is essential that the tax be most widely distributed, to the end that all citizens of Texas will be required to pay a part of this tax and that they will know they are paying it. Such a tax will then serve as a break against

fantastic schemes which may be advanced in the future, and it is for this reason that I deem it especially important that this question of old age pensions now be solved; first, by writing a definite plan in the Constitution; and second, that it be supported by a tax with a wide base that will be paid and felt by every citizen of this State. I believe the pension bill which I am submitting to you is a reasonable bill. I believe that it faces honestly and fully the obligations of the State; and I am unreservedly for it. But I am equally strong in my determination to try to so handle this problem as to not leave the door open for future abuses which have already come to some of our other States. I believe the transaction tax probably has the broadest base of any tax we could propose to meet the obligations herein incurred; and for that reason I believe it is a peculiarly well-fitted tax for the purpose of paying old age pensions.

May I call the attention of the Legislature to the exemptions which I have recommended in the plan to raise State revenue. I have recommended that educational and charitable institutions be exempt and have, of course, included other exemptions necessary so as to not have the tax apply to transactions which the State by virtue of the Federal Constitution is prevented from taxing; aside from these, the only exemptions which I recommend are as follows; and I shall give you my reasons in each case for recommending these exemptions.

(a) Salaries and wages and professional fees. The reason I recommend that salaries and wages be exempt is that the Federal Government under provisions of the Social Security Act will be collecting in Texas approximately \$43,000,000 (millions) annually, by a tax levied on salaries and wages. I think this is conclusive reason for exempting them from the provisions of this tax.

(b) I have recommended that the first sale by the producer of all agricultural and livestock products be exempt. I do not think it takes any argument to prove that the farms of this State are not getting their fair portion of the income which they produce. I believe, therefore, that anything we can do to aid them is justified.

(c) I have recommended that street car passenger fares up to 10 cents and street sales of newspapers be exempt, the reason being that visitors to the State who do not have their own automobiles, use the street cars while in the city and they would not likely be provided with tokens to pay the tax. Furthermore, the street cars are used almost exclusively by the low-wage classes of our cities. And they are rather uniformly in bad financial condition. All of which combined, I think, gives sound reason for their exemption. In the case of street sales of newspapers, I think the collection of the tax would be impossible.

I invite the attention of the Legislature also to the changes which I have recommended in the administration of the Old Age Assistance Law. You will note from reading this bill that I have advocated having the Legislature come just as near as possible deciding all of the questions and leaving the fewest number to administrative decisions. Furthermore, you will observe that I have recommended that the administration of this Act be continued by the Board of Control. I have done this for two reasons: One is my belief that the Board of Control has handled the old age pension problem in Texas about as efficiently as it could have been handled considering the law under which they operate. The second reason I have recommended the continuation of the Board of Control as the agency to administer old age pensions is that it is a non-partisan Board. As I see it, we are dealing with a non-partisan question and certainly I have no desire to inject politics into it by the proposal to create a new board which I, as Governor, would appoint. The Board of Control has been created by the laws of this State and I think the wise thing to do is to allow this Board to continue to function and give them a law to operate under which will enable them to do an efficient job.

May I conclude this message by urging the special importance of some of the things which I have already mentioned. When you are paying money out of the Treasury of the State to citizens of the State, no matter how meritorious your cause may be, there are always those who seek to abuse it; there are always those who seek to make a political

racket out of it. And I think we must remember that there is a great difference between urging the State to meet honestly and fairly its obligations in the field of Social Security, as I am recommending in this message, and the other program which the State might face in the future of allowing these things to simply degenerate into political rackets where a Governor, a Member of the Legislature, or other public official's competency for office would be judged solely by the liberality of his promises to pay old age pensions, provide for teacher retirement, or provide aid for destitute children. And I, for one, am for meeting every one of these obligations definitely and fully and providing the money to pay the bill. But I want to do it with a tax that is broad enough that all of our citizens will have a part in the payment and that they will realize the money to meet these obligations does not come from Santa Claus. I believe the good citizen is willing to pay the necessary tax to meet these social obligations, reasonably granted and honestly administered, and I want to keep it on that basis.

I, therefore, believe it is tremendously important that in the passage of this bill, two things be kept in mind: One, the importance of writing what we decide to do into the Constitution of this State so that it will not be subject to the changing fancies of Governors and Members of the Legislature; the other is levying a tax with a base broad enough that all the people will pay and will know they are paying. As I see it, these two fundamental things are essential both for the protection of the taxpayer and for the protection of the old people of this State. And I most urgently ask that whatever plan you may determine upon that it embody these two fundamental principles. I am perfectly willing to admit that it would be better to meet these obligations without these safeguards than to not meet them at all, but, certainly it is preferable that these safeguards be included.

If the Legislature approves the plan which I am submitting, we will have cared for the aid to destitute children, pensions to Confederate Soldiers; we will have provided for teacher retirement and for old age pensions. While at the same time we will have released revenue now going

to old age pensions to the Available School Fund and the General Fund in a ratio which will make possible the abolition of the State ad valorem tax now levied on the homes, farms and business property of this State. All of this will be written into the Constitution and it will be done with the approval of the voters of the State. I hope, therefore, that even those of you who believe that the State made a mistake when it embarked on the payment of old age pensions, will be willing to join with the rest of us who believe the State should pay these pensions and should meet the other obligations which the bill I submit to you proposes to meet, and that with your cooperation it will be possible to submit this whole problem immediately to the voters of this State, for their approval or rejection as in their judgment is best.

Based on the best information I have been able to obtain, it is my judgment that the transaction tax herein levied will produce in excess of \$45,000,000 (millions). But in this connection I would especially invite the attention of the Legislature to the fact that I am endeavoring in this legislation to definitely fix in the Constitution the tax rate and to fix it in a manner that it cannot be changed except by a vote of the people. I would also call the attention of the Legislature to the fact that we are dealing with several unknown quantities. It is not possible to determine with absolute accuracy the number of persons who will be eligible for old age pensions under the provisions of this Act nor is it possible to determine in advance with absolute accuracy the amount of revenue which this tax will produce. Obviously, the amount of tax which will be produced will fluctuate somewhat according to business conditions. But if we are to write the maximum rate of this tax into the Constitution, it must be adequate to carry this load even in a year of depression.

Therefore, while I believe a transaction tax slightly in excess of 1% would be adequate during a good business year, it probably would not be adequate during a year of substantial business recession. I have, therefore, recommended that the tax rate be fixed in the Constitution at 1.6% and have placed two safeguards in the constitutional amendment as follows:

(a) The amount of old age pensions which can be paid is definitely fixed in the amendment by stating specifically who shall be entitled to receive pensions. In other words, a surplus of money in this fund could not increase the amount which those eligible to receive pensions would receive.

(b) I have included a second safety clause providing that when ever the excess in this fund reaches 25% of the cost for the previous biennium, that such excess shall be automatically transferred to the General Fund.

I recommend, therefore, that this rate of transaction tax be included in the amendment as a safety measure. I do this for the reasons stated and for the further reason that we are in this amendment doing away with \$20,000,000 (millions) ad valorem tax. Therefore, the net increase which a 1.6% transaction tax will make in the sum total tax bill is substantially less than the total amount which the new tax actually raises, in fact, we will only be collecting, in round figures, in the neighborhood of \$25,000,000 (millions) in new taxes and out of that we will be caring for old age pensions, teacher retirement, aid for dependent children, and Confederate pensions.

I am told that due to the fact that the revenue now provided for old age pensions is inadequate, it may be necessary in February to make a substantial reduction in the pensions now being paid. I am also advised that the Pension Fund owes a Texas bank approximately \$2,000,000 for a loan heretofore granted. These facts together with the fact that the State has not provided for aid for dependent children, nor has it provided any means of meeting the obligation of the State to care for teacher retirement, all constitute an emergency and I, therefore, submit as emergency legislation the attached bill and constitutional amendment and I most respectfully urge that action on these matters be expedited to the end that these pressing obligations of the State be met not in a temporary manner, but in a permanent manner.

Respectfully,

W. LEE O'DANIEL,
Governor.

Following is the text of the joint resolution and bill submitted by Gov-

ernor Lee O'Daniel, in addressing Joint Session of the House and Senate:

A Joint Resolution

Proposing an amendment to Section 51b of Article III of the Constitution of the State of Texas, giving the Legislature power by General Laws to provide for the payment of old age assistance subject to certain limitations, and fixing the qualifications of recipients of old age assistance and fixing the maximum amount of assistance which may be granted by the State, and providing old age assistance shall not be paid except to persons who are in need and otherwise qualified to receive such assistance; defining the word "need;" providing that old age assistance shall not be construed as a vested right in recipients of old age assistance; providing for authority to accept aid from the Government of the United States for old age assistance; levying and providing for the collection of a transaction tax of one and six-tenths (1.6%) per cent on the amount of actual value passing by each transaction and providing for the payment of such tax, and providing that where the amount of value which passes by a transaction is fixed by law, the tax of one and six-tenths (1.6%) per cent of such value shall be collected on the last transaction only; defining the words "value," "person" and "transaction" as used in such amendment; and providing what transactions shall be exempt from said transaction tax; providing that production of natural resources of this State shall be subject to such transaction tax and fixing the date such tax shall be effective against such production, and determining the person liable for such tax; providing that if such transaction tax against production of natural resources fails or cannot be collected, a severance tax of one and six-tenths (1.6%) per cent of the value of such production be and is levied of such production in lieu of said transaction tax; providing for collection of such tax by the Comptroller of Public Accounts and payment thereof to the State Treasurer; providing that such tax funds shall be credited to the Texas Old Age Assistance Fund, and requiring the transfer of certain of such

funds to the Confederate Soldiers Pension Fund, Destitute Children Assistance Fund and Teacher's Retirement Fund, and fixing the amount and time of such transfers; providing for the exclusive use which shall be made of such funds, and providing that no other tax shall be levied for the payment of old age assistance, Confederate Soldiers pensions, destitute children assistance and teachers' retirement pensions; providing for payment of part of surplus tax into General Fund of the State; allocating such tax funds in case the same be inadequate to pay assistance as provided in this amendment; prohibiting counties, cities, and other political sub-divisions from levying transaction tax; giving the Legislature power by General Laws to provide for administration of the provisions contained herein and for the collection of all taxes herein levied; proposing to amend the Constitution of the State of Texas by adding thereto Section 1-b to Article VIII, abolishing all State ad valorem taxes from and after January 1, 1941, except as to property situated in counties or political sub-divisions receiving a remission of State taxes, and further providing that State revenue received from cigarette tax shall be allocated to Available School Fund, and specifying what use may be made thereof; providing for submission of amendment to qualified electors of the State and fixing the time of such election; providing for the necessary proclamation and making an appropriation to defray the expenses of proclamation, publication and election.

Be It Resolved by the Legislature of the State of Texas:

Section 1. That Section 51b of Article III of the Constitution of the State of Texas be amended so as to hereafter read as follows:

"Section 51b. The Legislature shall have the power by General Laws to provide for the payment of old age assistance, subject however to the following provisions and limitations:

(1) No one shall be eligible to receive old age assistance who is, (a) an habitual criminal or habitual drunkard; (b) who is an inmate of a State institution; (c) who has not been an actual resident of the State

of Texas for at least five (5) years during the nine (9) years immediately preceding the application for old age assistance and continuously for one (1) year immediately preceding such application; (d) nor shall any person be eligible for old age assistance unless such person be sixty-five (65) years of age or older.

(2) The amount of assistance granted by the State to be paid out of State funds shall never exceed Fifteen Dollars (\$15) per month to each person who is otherwise qualified to receive such assistance.

(3) Old age assistance shall never be paid except to persons who are in need and who are otherwise qualified to receive such assistance.

(4) The term "need" as used in subsection 3 above is hereby defined to mean: A person who does not have an income of Thirty Dollars (\$30) per month from the combined sources of his own labor, personal property and real property. And the amount of old age assistance granted by the State shall in each case be such an amount as when added to the income of the person from his own labor, from personal property and real property, together with any amount which may be granted by the Federal Government, will equal Thirty Dollars (\$30) per month, provided, that in no case shall the amount to be paid out of State funds exceed Fifteen Dollars (\$15) per month.

(5) The provisions hereof providing for old age assistance shall not be construed as a vested right in the recipient of old age assistance, and all assistance granted under the provisions hereof shall be deemed to be granted and shall be held subject to the provisions of any amendments to this Constitution and such amendatory or repealing Acts as may be hereafter enacted by the Legislature, and no recipient of old age assistance shall have any claim for compensation or otherwise by reason of such assistance being affected in any way by any such amendatory or repealing Acts.

(6) The Legislature shall have the authority to accept from the Government of the United States such financial aid for old age assistance as that government may offer not inconsistent with the limitations and provisions provided in this Amendment.

(7) There is hereby levied and shall be collected a tax of one and six-tenths (1.6%) per cent of the amount of the actual value passing from one person to another, under or by virtue of or in connection with each and every transaction as hereinafter defined, taking place between two or more persons, and which tax shall be added to the value passing by the transaction and be collected at the time such transaction is consummated, provided that in all cases where the amount of the value which passes by the transaction is fixed by law, the tax of one and six-tenths (1.6%) per cent of such value shall be collected on the last sale transaction only. Said tax shall be known and referred to as "Transaction Tax."

(8) The word "value" wherever used in this Act shall mean:

(a) As applied to professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature, done or performed, "value" shall mean the amount charged, or contracted to be paid for such services, either in money and/or property, and as to any such property the value thereof shall be determined as provided in part (b) or subsection (8) of this Section.

(b) As applied to tangible or intangible property or any right, title, interest, right of enjoyment or right of possession therein, "value" shall mean the actual fair market value thereof in the locality where any transaction with respect thereto takes place, if such property or right or interest therein has a market value; provided, that if such property or right or interest has no market value in the locality where the transaction with respect thereto takes place, then the intrinsic worth of such property, or any right or interest therein shall be the value thereof; provided, further, that if the parties to any transaction other than transactions involving services, shall have agreed upon the fair price or value of the property, or right or interest therein passing by such transaction, then such agreed price or value shall be the value of the property or right or interest therein so passing by such transaction, provided such agreed price or value shall represent the actual fair value of the property or right or interest therein, and such transac-

tion is wholly bona fide, and the value passing by the transaction has not been so fixed and agreed upon for the purpose of evading the payment of any transaction tax under the provision of this Amendment.

(9) The word "person" as used herein shall mean any individual, firm, co-partnership, corporation, association, joint adventure, agent, trustee, receiver, or any other group or combination acting as a unit, and the plural as well as the singular number unless the intention to give it more limited meaning is clearly disclosed by the context.

(10) The word "transaction" as used herein shall mean and constitute any dealings of every kind whatsoever between two (2) or more persons as defined in subsection nine (9) of this section, wherein or whereby professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity or other services of whatsoever kind or nature are done or performed, or wherein or whereby any right, title, interest, estate, right of enjoyment, or right of possession in or to any tangible or intangible property of any description passes, or is, or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished or affected.

(11) The enumeration herein of transactions which are subject to the tax imposed herein shall not be deemed to exclude other taxable transactions not included in such enumeration.

(12) All transactions shall be subject to said tax except that the following transactions shall be exempt from all of the provisions hereof: (a) Salaried, wages, and professional fees paid or received by an individual; (b) the first sale transaction by the producer of all horticultural, agricultural, livestock, poultry and dairy products; (c) transactions whereby single passenger fares not exceeding ten (10) cents are collected by street railway companies, or by motor bus carriers from customers for local transportation; (d) street sales of newspapers; (e) transactions consisting of sales, subscriptions and donations made to bona fide unemployment relief associations, bona fide charitable organizations and the Salvation Army, operating exclusively for the benefit and welfare of the community where located, and each of

which organizations dispenses to charity not less than eighty (80) per cent of its gross revenues; (f) bona fide church and religious organizations, bona fide unincorporated cemetery associations operated without profit for the exclusive benefit of its members, bona fide labor organizations, and bona fide business leagues, chambers of commerce and boards of trade operating exclusively for the benefit of the community where located, and each of such organizations and associations shall not be required to pay any tax on transactions under the provisions hereof, provided such organization or association is not organized for profit, and no part of the income of such organization or association inures to the benefit of any individual; (g) the mere act of cashing, honoring or certifying a check or depositing money or funds in a bank authorized by law to transact a banking business, or depositing money or funds in escrow, when taken alone, or when merely incidental to a transaction as defined in subsection (10) of this section, shall not be subject to a transaction tax under the provisions hereof; (h) transactions between the State of Texas and foreign countries and nations; (i) transactions between the State of Texas and other States of the United States of America; (j) transactions based upon interest and other earnings paid upon bonds as issued by the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions; (k) transactions based upon pensions and other emoluments received from the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions; (l) transactions involving receipt of taxes, forfeitures, fines, costs, cost deposits and fees received by any officer or agent of the Government of the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions; (m) transactions based upon interstate commerce, to the extent, and to the extent only that the State of Texas is prohibited by the Consti-

tution of the United States of America from taxing such transactions; (n) all transactions similar to the exempted transactions set forth in this subsection as (i), (j), (k), (l) and (m) shall be exempt from said transactions tax, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions; (o) transactions where the taxpayer is involved in the transaction as an officer or agent collecting taxes, fees, forfeitures, fines and costs for the State of Texas or for any political subdivision of the State of Texas.

(13) The production of any natural resource of this State shall be subject to this transaction tax based on the value of such production, and from and after September 1, 1939, such tax shall be fully effective as of the date of production or severance of such natural resources the same as though a sale thereof had then been made, and which tax shall be paid by the person owning such natural resource at time of production or severance.

(14) If by reason of any provision of law, or for any cause, the transaction tax herein levied against the production of any person or industry engaged in developing the natural resources of this State, fails or such tax cannot be collected, then in that event a severance tax of one and six-tenths (1.6%) per cent of the value of such production shall be, and hereby is levied on all of such production in lieu of said transaction tax, and the Legislature shall provide for the enforcement and collection of such severance tax.

(15) The Comptroller of Public Accounts of this State shall collect all transaction taxes levied herein and pay the same to the State Treasurer of this State, and such State Treasurer shall open and maintain in his office four (4) special funds, as follows: (a) Confederate Soldiers Pension Fund; (b) Destitute Children's Assistance Fund; (c) Teachers Retirement Fund; and (d) Texas Old Age Assistance Fund. All of the proceeds of the transaction tax herein levied shall as received by the State Treasurer from the Comptroller of Public Accounts, be by the State Treasurer credited to the Texas Old Age Assistance Fund.

(16) Between January 1, 1940, and July 1, 1940, the State Treasurer shall transfer from the Texas Old Age Assistance Fund to the said Destitute Children's Assistance Fund the sum of One Million Five Hundred Thousand (\$1,500,000.00) Dollars to meet the obligation of this State as authorized by Section 51d of Article III of the Constitution of this State, and annually thereafter said State Treasurer shall during the first six (6) months of each year transfer from said Texas Old Age Assistance Fund to said Destitute Children's Assistance Fund such an amount, not to exceed One Million Five Hundred Thousand (\$1,500,000.00) Dollars as may be necessary, together with any money or funds remaining in such Destitute Children's Assistance Fund to meet legislative appropriations authorized for such purposes. Such fund, or so much thereof as may be necessary shall be used exclusively for the payment of assistance to destitute children, and the State's portion of the cost of administering said funds.

(17) Between January 1, 1940, and July 1, 1940, the State Treasurer shall transfer from the Texas Old Age Assistance Fund, to the said Teachers Retirement Fund, an amount adequate to meet the obligations of this State which have accrued during the period beginning January 1, 1939, and ending January 1, 1940, as provided for in Section 48a of Article III of the Constitution of this State, and annually thereafter said State Treasurer shall during the first six (6) months of each year, transfer from said Texas Old Age Assistance Fund, to said Teachers Retirement Fund such an amount as may be necessary to meet the obligations of the State as provided for in said Section 48a of Article III of the Constitution of this State. Such fund, or so much thereof as may be necessary, shall be used exclusively for the payment of teachers retirement pensions, and the State's portion of the cost of administering such fund.

(18) Between January 1, 1941, and July 1, 1941, the State Treasurer shall transfer from the Texas Old Age Assistance Fund, to the Confederate Soldiers Pension Fund, the sum of Two Million (\$2,000,000.00) Dollars; and annually thereafter the said State Treasurer shall during the first six (6) months of each year transfer

from said Texas Old Age Assistance Fund to said Confederate Soldiers Pension Fund such sum as shall be adequate to pay Confederate Soldiers pensions as now or hereafter may be authorized by law, and such fund, or so much thereof as may be necessary shall be used exclusively for the payment of Confederate Soldiers pensions.

(19) All of the proceeds of the transaction tax herein levied save and except such of said proceeds as shall be credited to Confederate Soldiers Pension Fund as provided in subsection (18) of this Section, and to Destitute Children's Assistance Fund as provided in subsection (16) of this section, and to the Teachers Retirement Fund as provided in subsection (17) of this section, shall be used exclusively for the payment of old age assistance and the cost of collecting said tax and the administering of old age assistance; provided that at least thirty (30) days prior to the convening of such regular biennial session of the Legislature, beginning with such regular biennial session in the year of 1941, the State Treasurer of this State shall examine the condition of the Texas Old Age Assistance Fund, and when after meeting all obligations for the preceding biennium, it is found by him that a surplus of as much as twenty-five (25) per cent of the cost of meeting such obligations during the previous biennium has accumulated, then, in that event such surplus in excess of twenty-five (25) per cent shall be transferred by said State Treasurer to the credit of the General Fund of the State without any action by the Legislature directing such transfer.

(20) On and after January 1, 1940, Old Age Assistance, and Destitute Children's Assistance, and Teachers Retirement pensions and the State's portion of the administration thereof shall be paid exclusively from the revenue derived from the transaction taxes herein levied, and no appropriation shall thereafter be made out of any other State funds for any such purposes nor shall any other taxes be levied for the payment of Old Age Assistance, or for Destitute Children's Assistance, or for Teachers Retirement Pensions, or the State's portion of the administration thereof.

(21) On and after January 1, 1941, Confederate Soldiers pensions shall be paid exclusively from the revenue derived from the transaction taxes herein levied, and no appropriation shall thereafter be made out of any other State funds nor shall any other taxes be levied for the payment of Confederate Soldiers pensions.

(22) If after the State Treasurer has transferred and credited to the Confederate Soldiers Pension Fund, the Destitute Children's Assistance Fund, and Teachers Retirement Fund the respective amounts required to be transferred and credited to such respective funds, it appears that the revenue remaining will not be adequate to pay in full all grants made to recipients of old age assistance, then, in that event the revenue remaining shall be paid pro rata to such recipients of old age assistance based on the amount granted to each recipient, and the amounts thereafter paid for old age assistance shall continue on this same basis until it shall appear that the annual revenue will warrant payment on the higher basis.

(23) The transaction tax herein levied is in addition to all other taxes that now are or may hereafter be levied by law.

(24) No county, city or other political subdivision of this State shall have any power or authority to assess or levy any transaction tax.

(25) The Legislature shall have the power by general laws to provide for the administration of all of the provisions contained in this Amendment, and for the collection of all taxes herein levied."

Section 2. That Section 1-b be added to Article VIII of the Constitution of the State of Texas, the same to read as follows:

"Section 1-b. From and after January 1, 1941, the State shall neither levy nor assess any ad valorem tax on property for any purpose whatsoever. Provided however, from and after January 1, 1941, the State shall continue to levy and collect an ad valorem tax of thirty-five cents on the one hundred dollar valuation on all property situated in all counties or other political subdivisions which are now receiving a remission of all or a part of the State ad valorem taxes, and all such State ad valorem taxes so levied and collected by the State after January 1, 1941, shall

be remitted to the respective counties or political subdivisions paying the same, until such time as the entire indebtedness of said political subdivision or subdivisions, which was incurred upon the faith or credit of such tax remission is fully paid. Upon such indebtedness being fully paid, the exemption from State ad valorem tax provided above shall become applicable within such counties and political subdivisions. Provided further, from and after January 1, 1940, all revenue derived by the State from tax on the sale or consumption of cigars, cigarettes, tobacco or tobacco products, shall become and constitute a part of the Available School Fund of this State, and may be used for any purpose for which ad valorem taxes now credited to the Available School Fund of this State may be used. In case any other section of the Constitution is in conflict with the provisions of this Amendment, in that event this Amendment in all of its provisions shall control."

Section 3. Any Act or Acts which may be passed by the Legislature of this State in anticipation of the adoption of the foregoing amendments to the Constitution of this State shall not be invalid by reason of the anticipatory character of such Act or Acts.

Section 4. Said proposed Constitutional Amendment shall be submitted to a vote of the qualified electors of this State at a special election to be held throughout the State on the first Saturday in June, 1939, at which election all votes favoring such proposed Amendment shall write or have printed on their ballots the words:

"For the Amendment to the State Constitution providing a system of old age assistance, and levying a transaction tax for the payment of such old age assistance, and providing a source of payment for Confederate Soldiers Pensions, Destitute Children's Assistance and Teachers Retirement Pensions, and abolishing all State ad valorem taxes except in counties and political subdivisions now receiving remission of State taxes."

And all those opposed shall write or have printed on their ballots the words:

"Against the Amendment to the State Constitution providing a system of old age assistance, and levying a

transaction tax for the payment of such old age assistance, and providing a source of payment for Confederate Soldiers Pensions, Destitute Children's Assistance and Teachers Retirement Pensions, and abolishing all State ad valorem taxes except in counties and political subdivisions now receiving remission of State taxes."

Section 5. The Governor of the State of Texas is hereby directed to issue the necessary proclamation for said election and have same published as required by the Constitution and laws of this State.

The sum of Ten Thousand (\$10,000.00) Dollars or so much thereof as may be necessary is hereby appropriated out of any funds in the Treasury of this State not otherwise appropriated to pay the expenses of such publication and election.

A BILL

To Be Entitled

An Act, declaring the purpose of this enactment; providing for payment of old age assistance benefits; fixing qualifications of those entitled to receive old age assistance; defining the term "needy person" and other words and terms used in this Act; fixing amount of assistance to be granted by the State; providing for preparation and execution of applications for assistance and supporting affidavits; creating Texas Old Age Commission, and providing for the membership of such Commission; requiring the Commission to secure information showing income of applicants, and requiring statements by recipients of old age assistance of income, and providing for reviews and adjustments of assistance; providing manner of handling applications for assistance; providing denial of assistance and striking names of recipients of assistance from rolls where false statements are made or procured; designating offices to be maintained by the Commission and discontinuing certain offices, and providing for disposition of records, supplies and equipment in present offices; designating each County Judge as agent of the Commission, defining his duties and fixing his compensation and appropriating One Hundred and Fifty Thousand (\$150,000.00) Dollars out of Old Age Assistance

Fund for each of two (2) years immediately following effective date of this Act; providing State Board of Control shall constitute the Texas Old Age Assistance Commission and fixing the duties and compensation of the members of such Commission, and providing for payment of necessary expenses of said Commission; providing for appointment of an Executive Director of the Commission and fixing his qualifications, duties and salary; providing for the selection and discharge of clerical forces and fixing their salaries; authorizing the Commission to require bonds from employees and providing for payment of premiums on such bonds; appropriating out of funds of Texas Old Age Assistance Commission One Hundred and Fifty Thousand (\$150,000.00) Dollars for first year, and One Hundred Thousand (\$100,000.00) Dollars for the following year for maintenance and operating costs of said Commission, and providing for reduction of personnel to prevent deficit; providing method of handling applications for assistance benefits and providing for hearings and appeals; providing for investigations of applicants and for preservation of orders of the Commission and for filing such orders with Speaker of the House and Lieutenant Governor in the Senate; providing method to be followed by the Commission in administering this Act, and for the transfer of funds, property and records to the Commission; fixing status of obligations of Old Age Assistance Commission; providing assistance grants shall be inalienable and fixing status of such grants; authorizing acceptance of gifts by the Commission, and fixing conditions of such gifts; providing method of payment of benefits under this Act; requiring the Commission to file list of names of beneficiaries and amounts paid in County Clerk's office; fixing status of grants of assistance received from the Federal Government; making assistance granted subject to provisions of amendments to this Act; requiring reports to Commission of conviction of recipient of benefits of offenses and authorizing withholding of benefits under certain conditions; fixing compen-

sation of persons assisting applicants for benefits, making it unlawful to charge in excess thereof and fixing penalties for violation thereof; establishing the Texas Old Age Assistance Fund and providing for appropriations therefrom to meet existing and accruing obligations of the Commission; limiting certain appropriations and authorizing the Commission to accept certain funds appropriated to the State for administrative expenses by the Federal Government; fixing the maximum amount of old age assistance that may be paid; declaring unlawful misappropriations of all Texas Old Age Assistance Funds and providing a criminal penalty therefor; designating this Act as "Texas Old Age Assistance Act"; defining the words "value", "person", "transaction", "Comptroller", "State" and "taxpayer" as used in this Act; providing for the levying of a tax on each and every transaction as defined in this Act; and providing for the collection of such tax and exempting certain transactions from such tax and providing that transactions enumerated shall not be deemed to exclude other taxable transactions; making production of natural resources subject to transaction tax, fixing basis of such tax and effective date of levy of such tax thereon and designating persons required to pay the same; providing severance tax on production of natural resources in event transaction tax can not be lawfully levied on production of natural resources; fixing disposition and use of taxes levied and collected hereunder and requiring the State Treasurer to examine the condition of Texas Old Age Assistance Fund and providing for transfer by him to General Fund of excess money in Texas Old Age Assistance Fund; requiring transaction tax to be paid to the Comptroller of Public Accounts and disposition thereof to be made by him; fixing the time and method of payment of transaction tax providing penalties for the non-payment thereof and for recovery by the State of such unpaid tax; authorizing suits for the collection of taxes and the venue of suits instituted against the Comptroller of Public Accounts of this State to enjoin

collection of such taxes and requiring the payment of taxes as a condition precedent to the filing of suit enjoining the payment of taxes; authorizing Comptroller of Public Accounts to make and publish rules and regulations for the enforcement of this Act; authorizing the Comptroller of Public Accounts to require registration of persons, firms, partnerships, companies, corporations, associations, and others and to require reports and information from any person, and authorizing the examination of books and records and providing all information received by the Comptroller shall be treated as confidential; declaring unlawful the divulging of certain information of taxpayers' affairs, and fixing mandatory penalty therefor, and for discharge of guilty employees; authorizing the Comptroller of Public Accounts to prescribe all forms and maintain all records necessary for administration and enforcement of this Act and providing failure to furnish forms shall not be a defense against failure to pay taxes; authorizing State Board of Control to design and manufacture metal tokens, fixing the unit value of such tokens and tokens required to be paid in transactions; authorizing the State Board of Control to design and print transaction tax stamps and fixing the design thereof and providing that printing and manufacturing of transaction tax stamps and transaction tax tokens shall be awarded by competitive bids and requiring such stamps and tokens to be delivered to the State Treasury, and providing for the sale and delivery of such stamps and tokens; authorizing the State Board of Control to change design, size and denomination of all stamps and tokens; providing for the redemption of unused stamps and tokens; requiring stamps and tokens to be presented for redemption within certain time and making it unlawful for any person to have in his possession stamps or tokens after such time, and providing for issuance of proclamation by State Treasurer of new designs of stamps and tokens, and fixing a criminal penalty for any person to have in his possession stamps or tokens of old designs after specified date; providing for

exchange of transaction tax stamps and transaction tax tokens; requiring State Treasurer to keep record of all stamps and tokens sold or exchanged; fixing method of payment of transaction tax; requiring certain instruments and documents evidencing certain transactions to be stamped and fixing penalties for violation thereof and prohibiting any such unstamped instruments to be filed or recorded by any public official of this State; designating particular instruments which shall be stamped by such transaction tax stamps and requiring certain statement on certain instruments not stamped, and making inadmissible in evidence in any suit or proceeding of instruments not stamped as required by this Act; excluding from the provisions of this Act instruments taken by or on behalf of the United States of America; providing for an appropriation of Three Hundred and Fifty Thousand (\$350,000.00) Dollars out of General Fund of the State to defray costs of administration and collecting taxes levied by this Act for the period of June 15, 1939, to June 15, 1940, and requiring reimbursement of such appropriation; appropriating Three Hundred Thousand (\$300,000.00) Dollars out of the Texas Old Age Assistance Fund to defray costs of administration and collecting taxes during the period of June 15, 1940, to June 15, 1941; requiring Comptroller of Public Accounts to set up department for administering the tax provisions of this Act, and authorizing the employment of necessary personnel to administer this Act, and providing limitations on the salaries of such employees; providing after the effective date of this Act for payment of old age assistance exclusively from sources fixed by this Act; requiring the State Treasurer to open and maintain in his office Texas Old Age Assistance Fund, Confederate Soldiers Pension Fund, Destitute Children's Assistance Fund and Teacher's Retirement Fund, and requiring such State Treasurer to transfer from the Texas Old Age Assistance Fund, to the said Confederate Soldiers Pension Fund, and to the said Destitute Children's Assistance Fund, and to the said Teacher's Retirement Fund, certain

sums at specified times to meet the obligations of this State, and providing the exclusive use to be made of such transferred funds, and providing that old age assistance, Confederate Soldiers pensions, destitute children's assistance and teacher's retirement pensions shall after the times fixed by this Act, be paid from the revenue derived from transaction taxes; fixing source from which the cost of administering such funds shall be paid, and providing for the disposition of the revenue derived from transaction taxes in case such revenue shall be inadequate to pay assistance and pensions as fixed by this Act; declaring certain acts unlawful and fixing penalties therefor; repealing Articles I and II of House Bill No. 8, passed by the Third Called Session of the Forty-fourth Legislature as amended by Senate Bill No. 415 of the Acts of the Forty-fifth Legislature, Regular Session, and repealing all laws and parts of laws in conflict herewith, and providing that Articles III, IV and V of House Bill No. 8 passed at the Third Called Session of the Forty-fourth Legislature as amended by House Bill No. 441 of the Acts of the Forty-fifth Legislature, Regular Session, and as amended by House Bill No. 377 of the Acts of the Forty-fifth Legislature, Regular Session, shall continue in full force and effect, and this Act shall be cumulative thereof; and amending Article III, Chapter 495, Acts of the Forty-fourth Legislature, Third Called Session, by adding thereto Section 7, providing that on and after January 1, 1940, all net revenue derived from cigarette tax shall be credited to the Available School Fund, and that all net revenue derived from taxes levied under said Article III and now placed in the Available School Fund shall continue to go to such fund, and that all other taxes which are levied in said Article III which are not credited to Texas Old Age Assistance Fund, shall on and after January 1, 1940, be allocated to the General Fund, and repealing all laws in conflict with such amendment and this Act; fixing the effective date of this Act, and declaring an emergency.

Be It Enacted by the Legislature of the State of Texas:

Article I

Section 1. It is hereby declared: (a) That the intention and purpose of the Legislature, by and through the enactment of this Act, is to provide for the payment of old age assistance benefits by raising revenue for such purpose, and to define the class of persons who shall be eligible for such old age assistance.

(b) It is recognized by the Legislature that the existing law is not sufficiently definite in its statements as to those eligible to receive old age assistance benefits, to insure the prompt payment of such benefits, and the Legislature also recognizes the fact that the revenue now available for old age assistance benefits is wholly inadequate.

(c) It is the declared purpose of the Legislature to adopt the most liberal attitude in the payment of old age assistance that is consistent with the provisions of the Constitution of this State and the provisions of the National Social Security Act. And it is the further purpose of the Legislature within these limitations to guarantee to all persons sixty-five (65) years of age an income of at least thirty dollars (\$30.00) per month.

(d) The Legislature also declares that in dealing with the question of the payment of old age assistance, it is faced with three (3) limitations: First, the Constitutional limitation of this State, that the amount of assistance to be paid out of State funds can never exceed fifteen dollars (\$15.00) per month; second, the restrictions carried in the National Social Security Act; and third, the important limitation of the ability of the taxpayers of this State to carry additional tax burdens. While recognizing all three of these limitations, it is the purpose of the Legislature to meet the obligations of the State to the aged, and, with the cooperation of the Federal Government, to guarantee to every person sixty-five (65) years of age, who meets other requirements of this Act, a regular monthly income of at least thirty dollars (\$30.00) per month, and this Act is designed to accomplish that purpose.

(e) It is further declared that the law granting old age assistance should

be written in such terms as to guarantee that those entitled to receive old age assistance will receive it promptly and regularly, and that all politics be eliminated as far as possible in the granting of assistance to the applicants for such help. To accomplish this purpose it is the intention of the Legislature in the passage of this Act, to write into the law in specific and definite terms eligibility standards, thereby leaving a minimum of authority with the Old Age Assistance Commission.

(f) It is also recognized that there are many cases where persons sixty-five (65) years of age, may own real and personal property having a value, which in some cases may amount to several thousand dollars, but which property is not at the time producing any income. It is the declared belief of the Legislature that such persons should be entitled to receive old age assistance.

(g) It is also the declared purpose and intention of the Legislature to so word this Act as to guarantee to the aged of this State, covered by this Act, not only security against absolute want, but to provide security of mind, and to accomplish this purpose, the Legislature seeks, through the passage of this Act, but within the limitations of the Constitution of this State and the provisions of the National Social Security Act, to guarantee an income of thirty dollars (\$30.00) per month to all persons sixty-five (65) years of age within this State, when such persons have qualified under the provisions of this Act. It is the further purpose of the Legislature, through the passage of this Act, to provide for the granting of old age assistance with the minimum expenditure of money for supervision, and with the minimum annoyance to those receiving such assistance.

Article II

Section 1. Subject to the provisions of this Act, the Texas Old Age Assistance Commission as constituted by this Act, shall grant financial aid to needy persons, provided such person

(a) Has attained the age of sixty-five years;

(b) Is a citizen of the United States;

(c) Has resided in the State of Texas for five years or more within

the last nine years preceding the date of his application for assistance, and has resided in the State of Texas continuously for a year immediately preceding his application. The terms "residence," "residing," and "resided" as used in this Act shall denote actual physical presence within this State as distinguished from the word "domicile" and the word "residence" as used in their broader meaning;

(d) Is not at the time of receiving such aid an inmate of any public or private institution of a custodial, correctional, or curative character, provided, however, that aid may be granted to persons temporarily confined in private institutions for medical or surgical care;

(e) Has not made a voluntary assignment or transfer of property for the purpose of qualifying for such aid;

(f) Is not an habitual criminal or an habitual drunkard.

Section 2. The term "needy person" as used in this Act is hereby defined to mean a person who does not have an income from the combined sources of his own labor, income from personal property, and income from real property of at least thirty dollars (\$30.00) per month. And in all cases where an applicant for old age assistance has met all other requirements of this Act, and the only question under consideration is that of need, the amount of assistance granted by the State shall be in such amount that the assistance granted by the State to be paid out of State funds when added to any assistance granted which is to be paid out of Federal funds, plus the income of the applicant from the combined sources of his own personal labor, income from personal property, and income from real property shall equal thirty (\$30.00) dollars per month; provided, that this can be accomplished without the assistance granted by the State to be paid out of State funds exceeding the now existing constitutional limit of fifteen dollars (\$15.00) per month. In no case shall the assistance granted by the State to be paid out of State funds not including Federal funds, exceed fifteen dollars (\$15.00) per month. In determining the monthly income of an applicant for old age assistance, it shall be determined by the Texas Old Age Assistance Commission by adding the income of the applicant from his own

labor, income from personal property, and income from real property for the twelve (12) months immediately preceding the date when the income is calculated, and dividing the total by twelve (12) the resulting average shall be deemed to be the monthly income from these three (3) combined sources.

Section 3. The word "income" as used in Section Two (2) of Article II of this Act is hereby defined to mean the total amount received in money or its equivalent from personal labor, wages, salaries, interest, dividends, rentals and bequest, without any deductions, whatsoever, other than taxes actually paid thereon; provided however, that as to all real property the income thereon shall be the net rents received and which shall remain after deducting all taxes paid on such real property for the same period covered by such rents, and all insurance premiums paid thereon but prorated for the same period covered by such rents, and the amount actually paid for necessary repairs made to such real property during the same period covered by such rents; provided further, that in determining income from real property no deductions shall be made on account of any depreciation in the value of such property.

Section 4. The Texas Old Age Assistance Commission is required to so prepare its written applications for old age assistance as to eliminate all field investigations which can possibly be eliminated, and to make the application, with its supporting affidavits, furnish all information necessary to enable the applications for old age assistance to be passed on promptly. The County Judge's office in the several counties of the State shall be utilized to the maximum extent as an agency to aid in the preparation of applications for old age assistance, and in furnishing additional information when it is required by the Commission, thereby saving the State the expense of maintaining a large staff of field investigators, and at the same time protecting the applicants for old age assistance from unnecessary and embarrassing investigations into their personal affairs. And in order to accomplish such purpose the Texas Old Age Assistance Commission shall prepare the following application forms, with the following information and requests for informa-

tion, and each applicant for old age assistance shall execute said forms in the manner herein provided for:

(a) The Texas Old Age Assistance Commission shall prepare the application forms to be used by applicants in applying for old age assistance, and such application forms shall call for the following information: Name and address of the applicant; date and place of birth; evidence to establish the fact that the applicant is a citizen of the United States; evidence to show whether or not the applicant has resided in the State of Texas for five (5) years or more within the last nine (9) years preceding the date of his application for old age assistance; evidence to show whether or not the applicant has resided in the State of Texas continuously for a year immediately preceding his application for old age assistance; evidence to show whether or not the applicant is an inmate of any public or private institution of a custodial, correctional, or curative character; evidence to show whether the applicant is temporarily confined in a public or private institution for medical or surgical care; evidence to show whether or not the applicant is an habitual criminal or an habitual drunkard; evidence to show whether or not applicant has made a voluntary assignment, transfer or conveyance of property for the purpose of qualifying for old age assistance; evidence showing sale or transfer of property for any purpose during the period of one year immediately preceding the date of filing his application; information showing the income of the applicant from all sources for the period of one year immediately preceding the date of filing his application, and which information shall be separated into the following two classes: (1) total income from real and personal property, including income from personal labor; (2) total income from gifts and donations. Such application for old age assistance shall be sworn to by the applicant.

(b) Each applicant for old age assistance shall be supported by four (4) affidavits, each executed by a reputable citizen of the county in which the applicant resides. Such affidavits shall call for the following information: (1) Name and address of the applicant for old age assistance which the affidavit is designed to support, and answers to the fol-

lowing questions: (2) How long have you known the applicant? (3) Do you know the age of applicant? If so, what is applicant's age? (4) Is the applicant at this time an inmate of any public or private institution of this State? If so, give all of the facts which you have concerning this matter. (5) Does this applicant own any personal or real property? If so, state in detail what property the applicant owns, where situated, and give your idea of the value of this property. (6) Does applicant receive any income from real or personal property? If so, give such information as you have as to the amount of income which the applicant has received during the past year. (7) Has the applicant sold or transferred the title to any real or personal property to any one during the past year? If so, give such facts as you have concerning such sale or transfer of property. (8) State what you know as to the general character and conduct of this applicant? (9) Are you related to the applicant by blood or marriage? If so, state what such relationship is.

The four (4) affidavits so to be executed by the reputable citizens of the county where the applicant resides, as by this Section required, shall be attached to and made a part of the application for old age assistance when it is mailed to the Commission.

Section 5. (a) In all cases where the Texas Old Age Assistance Commission is considering the income of the applicant for the purpose of determining whether or not the applicant is in need of old age assistance, the Commission shall secure information showing the total income of the applicant from the combined sources of his own personal labor, and income from real and personal property for the twelve-month period immediately preceding the date when said application was filed. And the "monthly income" for the purposes of this Act is hereby defined as one twelfth ($1/12$) of the annual income of the applicant from the sources and for the period above referred to.

(b) Beginning in December, 1939, and annually thereafter the Texas Old Age Assistance Commission shall, when the check for the payment of assistance for the month of December is mailed, forward to each person receiving assistance a blank form, to-

gether with necessary instructions for executing the form, and each person receiving old age assistance shall execute such form showing the total income of such person from the combined sources of his own personal labor or income from real and personal property during the one year period immediately preceding the date when such form is sent, and the blank form shall call for such other information as the Commission may deem necessary. Such form shall be executed under oath and returned to the Texas Old Age Assistance Commission, and upon receipt thereof, the Commission shall immediately, or as soon thereafter as possible, review all such executed forms and make adjustment of the amount of old age assistance based on the information contained therein, provided, that if the examination of such executed form does not show any substantial change in the income of the person receiving old age assistance, then, in that event the monthly payments shall remain unchanged.

Section 6. (a) If any applicant for old age assistance shall make any false or fraudulent statement or representation in any application or other document as to a material fact, for the purpose of procuring old age assistance under the provisions of this Act, or (b) if any such applicant for old age assistance shall induce or procure the making by any person of any false or fraudulent statement or representation of any material fact for the purpose of supporting his application for old age assistance or securing the granting to said applicant of old age assistance under the provisions of this Act, or, (c) if any applicant for old age assistance under the provisions of this Act, shall sell, transfer, convey, dispose of or mortgage any of his real or personal property for the purpose of qualifying for old age assistance under this Act, or for the purpose of avoiding or defeating any of the provisions of this Act, then in any such event, the Commission shall hold a hearing thereon, after having given such applicant or person receiving old age assistance reasonable notice of such hearing by registered mail, and if the Commission shall find that such applicant or person receiving old age assistance has done any of the acts set forth in subdivisions (a), (b), or (c) of this Section, the Commission shall:

(1) If the name of such person is not on the old age assistance rolls, his application for old age assistance shall be denied, and all relief under this Act shall be refused, and such person shall not at any time thereafter be enrolled as a beneficiary under this Act, or be eligible to receive old age assistance under this Act.

(2) If the name of such person then be on the old age assistance rolls, the same shall be stricken therefrom and no further payments as assistance shall at any time thereafter be made to such person, and such person shall thereafter be ineligible to receive old age assistance under this Act.

Section 7. No application for old age assistance shall be considered or approved by the Commission unless the applicant shall furnish and deliver to the Commission all of the documents herein required to be furnished by such applicant, together with proof of the applicants eligibility to receive old age assistance as herein required.

Section 8. The Commission shall not maintain regional or district offices, and all such offices now being maintained by the Commission shall be discontinued within sixty (60) days after the effective date of this Act, and all records of the Texas Old Age Assistance Commission now in such local, regional or district offices shall be returned to the office of the Texas Old Age Assistance Commission in Austin, Texas, and all property of the Texas Old Age Assistance Commission in such offices shall be returned to Austin, or shall be delivered to the Board of Control who are hereby authorized to sell all such supplies and equipment in the manner provided by law and to deposit all funds received from such sale to the credit of the old age assistance account.

Section 9. The County Judge in each county of this State is hereby designated and constituted an agent of the Texas Old Age Assistance Commission, and he shall assist applicants in the preparation of applications for old age assistance provided for in this Act, and he shall render such other service and perform such other duties, as he may be called upon to render by the Commission in perfecting applications for old age assistance.

Section 10. Where requested by applicants for old age assistance to do so, the County Judge shall aid such applicant in preparing his application. He shall also aid in preparing necessary supporting evidence. He shall examine the application, together with supporting evidence, before forwarding same to the Texas Old Age Assistance Commission, for the purpose of seeing that such applications and supporting evidence are properly prepared. It shall also be the duty of the County Judge when an application for old age assistance has been completed, to attach to such application the four (4) supporting affidavits, and forward all of said documents to the Texas Old Age Assistance Commission, together with a certificate prepared and certified by him, that he has examined the application and supporting evidence, and based on the information contained therein, he recommends that the application for old age assistance be approved, or disapproved as in his judgment he deems proper.

Section 11. In order that the County Judge may be provided with such clerical assistance as may be necessary to carry out the provisions of this Act, County Judges of the various counties of this State shall be repaid out of old age assistance funds as follows: The amount which the County Judge is paid shall be determined by the following limitations based on population as fixed in the Federal census of 1930, to-wit: In counties having a population of one hundred thousand (100,000) or more, eighteen hundred dollars (\$1800.00) per annum; in counties having a population of seventy-five thousand (75,000), but less than one hundred thousand (100,000), twelve hundred dollars (\$1200.00) per annum; in all other counties of the State, nine hundred dollars (\$900.00) per annum. Said annual compensation shall be paid in twelve equal monthly installments, and shall be based upon vouchers properly sworn to. Said vouchers shall, when approved by the Executive Director of the Commission shall be paid out of the Old Age Assistance Fund. For the purposes aforesaid there is hereby appropriated out of the Old Age Assistance Fund one hundred and fifty thousand (\$150,000.00) dollars for each of the two years immediately following the effective date of this Act.

Article III

Section 1. In addition to the duties now imposed by law, the State Board of Control is hereby charged with the duty of administering this Act, and, for the purpose of administering the provisions of this Act, the State Board of Control shall be known as and shall constitute the Texas Old Age Assistance Commission. Whenever the word "Commission" is used in this Act, it shall mean the Texas Old Age Assistance Commission. The Commission shall be composed of the members of the State Board of Control. As members of the Texas Old Age Assistance Commission, each member of the Board of Control shall be compensated, in addition to the compensation he now receives by law, on the basis of twelve hundred dollars (\$1,200.00) per year, which shall be paid in equal monthly installments out of the Old Age Assistance Fund herein created. Members of the Commission shall be entitled to all reasonable and necessary expenses incurred in the discharge of official duties; such allowances, however, not to exceed the sum fixed by law for other State officials in the discharge of similar duties.

Section 2. On the effective date of this Act, the State Board of Control, acting as the Texas Old Age Assistance Commission, shall select and appoint an Executive Director of the Texas Old Age Assistance Commission, who shall be not less than thirty-five (35) years of age at the date of his appointment, who is a resident citizen of the State of Texas, and who shall have resided within the State for at least ten (10) years, preceding the date of his appointment. Who shall not be an occupant of any elective State office at the time of his appointment, nor have occupied any elective State office during the six (6) months next preceding the date of his said appointment. Nothing in this Section shall preclude the Texas Old Age Assistance Commission from reappointing the person now serving as Executive Director if the Commission desires to do so. Said Executive Director shall be paid an annual salary to be fixed by the Texas Old Age Assistance Commission, such annual salary to be paid in equal monthly installments and the same shall not be fixed at an amount in excess of five thousand (\$5000.00) per annum.

Section 3. The Executive Director, under the direction of the Texas Old Age Assistance Commission, and as such, shall be responsible for the proper and economical administration of the affairs of such Commission. He shall have the power and authority, with the consent and approval of a majority of the members of the Commission, to select, appoint, and discharge such assistants, clerks, stenographers, auditors, bookkeepers and clerical assistants, as may be necessary in the administration of the duties imposed upon such Commission within the limits of the appropriations that may be made for the work of said Commission; salaries of all such employees shall be fixed by the Commission in keeping with salaries paid other State employees performing similar work and holding similar positions. The Commission is authorized to require bond or bonds from any and all of its employees, in such amounts as it may designate, and in such forms as may be prescribed by the Attorney General whenever in its discretion such bonds may be deemed necessary and advisable, and the premiums on such bond or bonds shall be paid out of the Texas Old Age Assistance Fund.

Section 4. There is hereby appropriated out of the funds of the Texas Old Age Assistance Commission One Hundred and Fifty Thousand (\$150,000.00) Dollars for the first year, beginning on the effective date of this Act, and One Hundred Thousand (\$100,000.00) Dollars for the year immediately following, to provide for the maintenance and operating costs of the Texas Old Age Assistance Commission, as authorized in Section 3 above. And it shall be the duty of the Texas Old Age Assistance Commission, when this Act becomes effective, to so reduce the personnel of the Texas Old Age Assistance Commission as to insure that there will be no deficit in the operation of this Commission based on the funds herein appropriated.

Section 5. When applications for old age assistance are received in proper form, they shall be examined by the Executive Director, or by some person designated by the Director for this work. If upon examination it is found that the application does not contain all of the information necessary to reach a decision,

then in that event a letter shall be directed to the applicant, stating the additional information necessary and the applicant shall be directed to furnish said information to the County Judge of his county; copy of this letter shall be forwarded to the County Judge and when the additional information is received by the County Judge, he shall forward it to the Texas Old Age Assistance Commission. If in the judgment of the Executive Director, or of the person whom he has assigned to examine the application, it would be possible to secure the necessary information directly from the County Judge, then in that event the letter may be addressed directly to the County Judge, calling for the information. When all necessary information and documents required by this Act have been received, the Executive Director, or his representative, shall, according to the provisions of this Act, approve or disapprove the application for old age assistance and shall at the same time determine within the limitations of this Act, the amount of such assistance to be granted, and the applicant shall be notified of such decision.

Section 6. The Commission shall provide for the holding of hearings of all appeals by applicants for aid or assistance where such aid or assistance has been denied by the Executive Director, or his representative. Such hearings may be conducted by any one of the members of the Commission or by any employee designated by the Commission to hold such hearings. When such hearings are conducted by less than a majority of the Commission, a summary of the testimony taken shall be prepared and filed with the Commission. At such hearing the applicant for old age assistance may appear in person or by representative or he may go to the County Judge and furnish the County Judge with such additional evidence as he desires to have submitted to the Commission to be reviewed by the Commission.

Section 7. In special cases where the Executive Director has exhausted all means at his command to secure information with reference to an application for old age assistance by obtaining it directly from the applicant, or through the County Judge, and he believes that a personal in-

vestigation by a representative of the Texas Old Age Assistance Commission is essential, then in that event he may by written order direct a field representative of the Texas Old Age Assistance Commission to make such investigation. All such orders shall show the reason why the Executive Director believes that an investigation by a field representative of the Texas Old Age Assistance Commission is necessary and why he believes that the information cannot be secured either from the applicant or through the office of the County Judge. A copy of all such orders shall be maintained in a special file and the expense of the Commission in making each of these investigations shall be later entered in memorandum form and attached to such orders. Thirty (30) days prior to the assembling of the regular biennial session of the Legislature, a complete copy of all orders issued by the Executive Director under the provisions of this Act, accompanied by the memorandum of expense incurred in making such investigations, shall be filed with the Speaker of the House and with the Lieutenant Governor in the Senate.

Section 8. The Commission shall provide for such methods of administration not inconsistent with the provisions of this Act, and shall make such reports as may be necessary to comply with the provisions of the National Social Security Act.

Section 9. All outstanding legal obligations of the Texas Old Age Assistance Commission shall remain legal obligations of the New Texas Old Age Assistance Commission, as provided for in this Act. All funds, property, records, and correspondence of the Texas Old Age Assistance Commission shall automatically, on the effective date of this Act, pass to the new Texas Old Age Assistance Commission, as provided for in this Act.

Section 10. The provisions of this Act providing for old age assistance shall not be construed as a vested right in the recipient of old age assistance. An old age assistance grant shall be absolutely inalienable by any assignment, power of attorney, sale, charge, or execution or other legal process, and in case of bankruptcy the assistance benefits shall not pass through any trustee or other person

acting on behalf of creditors. The Commission is authorized to accept on behalf of the Texas Old Age Assistance Fund any gifts, deeds or bequests of any money or other property, the proceeds of which shall accrue to the benefit of the Texas Old Age Assistance Fund. In making such gifts or contributions the donor shall attach no conditions whatever. The sole management and disposition of the property so received shall be in the Commission.

Section 11. All old age assistance benefits provided for under the terms of this Act shall be paid by vouchers or warrants drawn by the State Comptroller on the Texas Old Age Assistance Fund and for the purpose of permitting the State Comptroller properly to draw and issue such vouchers or warrants, the Texas Old Age Assistance Commission shall furnish the Comptroller with a list or roll of those entitled to assistance from time to time, together with the amount to which each recipient is entitled. When such vouchers or warrants have been drawn, they shall be delivered to the Executive Director of the Texas Old Age Assistance Commission, who in turn shall supervise the delivery of the same to the persons entitled thereto.

Section 12. The Commission shall furnish monthly to the County Clerk of each county a list showing the names of all persons in such county receiving old age assistance and the amount thereof. Such list shall be a public record in such county and as such shall be available for public inspection at all reasonable hours.

Section 13. All grants of assistance or aid from the Federal Government and its agencies shall not be considered as a part of the State assistance herein granted, but shall be regarded as a separate grant of assistance or aid.

Section 14. Every assistance granted under the provisions of this Act shall be deemed to be granted and shall be held subject to the provisions of any amending or repealing Act that may be hereafter enacted, and no recipient under this Act shall have any claim for compensation or otherwise by reason of this assistance being affected in any way by such amending or repealing Act.

Section 15. Whenever in this Act the masculine pronoun is used, it shall

be held to include the feminine pronoun also.

Section 16. If any recipient under this Act is convicted of any crime, misdemeanor or felony, or other offense, punishable by imprisonment for a period of six (6) months or longer, such fact shall be reported to the Texas Old Age Assistance Commission and the said Commission may direct that payments to such recipient be defaulted and withheld for such period.

Section 17. It shall be unlawful for any attorney at law or attorney in fact, or any other person, firm or corporation whatsoever, representing any applicant for old age assistance or aid in this State, to charge a fee for his services in excess of Ten (\$10.00) Dollars in aiding or representing any such applicant before the Texas Old Age Assistance Commission or for any other services in aiding such applicant to secure an old age assistance grant. It shall likewise be unlawful for any person, firm or corporation to advertise, hold himself out to the public or solicit the procurement of old age assistance or aid. Any person violating this Section of this Act shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by confinement in the county jail for a period of not to exceed thirty (30) days, or by both such fines and imprisonment. Where any firm, association, or corporation is found to be guilty of a violation of the provisions of this Section the offending Act of such firm, association or corporation shall be deemed to be the act of the president, general manager, or other managing official of such firm, association or corporation, and such official shall be subject to the same penalties as herein provided for other persons.

Section 18. Any person or persons charged with the duty or responsibility of administering, disbursing, auditing, or otherwise handling the funds provided for in this Act, and who shall knowingly misappropriate any such funds, or who shall knowingly and/or unlawfully distribute or expend any of same, contrary to or in violation of the provisions of this Act shall be deemed guilty of a felony, and shall, upon conviction thereof, be confined in the State penitentiary for a term of not less than two (2)

years and not more than five (5) years.

Section 19. For the purpose of paying old age assistance to citizens of Texas as herein provided for, and for the purpose of defraying expenses of this Act and meeting existing legal obligations of the Texas Old Age Assistance Commission, there is hereby created and established a special fund in the Treasury of the State of Texas, to be kept by the State Treasurer separate and apart from all other funds and to be known as the "Texas Old Age Assistance Fund". And for the purposes above set out and subject to the limitations of this Act, all of the money accruing to the Texas Old Age Assistance Fund for each of two years following the effective date of this Act, or so much thereof as may be necessary, is hereby appropriated to meet now existing legal obligations of the Texas Old Age Assistance Commission and accruing legal obligations during the period of two (2) years immediately following the effective date of this Act. Provided that if the fund is insufficient to pay all grants of old age assistance in full, the same shall be paid pro rata, based on the amount granted to each recipient. And provided further that expenditures covering the operation and maintenance of the Texas Old Age Assistance Commission to be paid out of State funds shall not exceed for appropriations authorized in Section II, Article II, of this Act and Section 4, Article III of this Act. And provided further that the Commission is empowered to accept any funds appropriated and allocated to the State of Texas for administrative expense by the Federal Government or the Social Security Board and same may be expended for administrative purposes in addition to that allowed for administrative purposes out of State funds, as authorized in Section II, Article II of this Act and Section 4, Article III of this Act.

Section 20. The amount of old age assistance or aid from State funds that may be paid to any applicant who has qualified under the terms of this Act, shall never exceed the sum of Fifteen (\$15.00) Dollars per month and in addition thereto such funds as the Federal Government may appropriate and allocate to the State of Texas from time to time, shall be distributed

among recipients of assistance in like manner as State funds are paid under the terms of this Act.

Section 21. If any section, subsection, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not effect the remaining portions of this Act.

Section 22. This Act shall be known as the "Texas Old Age Assistance Act" and may be cited and referred to as such.

Section 23. All laws and parts of laws in conflict with the foregoing Articles I, II and III of this Act are hereby repealed.

Section 24. All of Article I, and all of Article II of House Bill No. 8 passed by the Third Called Session of the Forty-fourth Legislature, are hereby expressly repealed.

Article IV

Section 1. Wherever used in this Article IV of this Act:

(a) The word "value" wherever used in this Act shall mean:

(1) As applied to professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature, done or performed, "value" shall mean the amount charged, or contracted to be paid for such services, either in money and/or property, and as to any such property the value thereof shall be determined as provided in part (2) of subsection (a) of this section.

(2) As applied to tangible or intangible property or any right, title, interest, right of enjoyment or right of possession therein, "value" shall mean the actual fair market value thereof in the locality where any transaction with respect thereto takes place, if such property or right or interest therein has a market value; provided, that if such property or right or interest has no market value in the locality where the transaction with respect thereto takes place, then the intrinsic worth of such property, or any right or interest therein shall be the value thereof; provided, further, that if the parties to any transaction other than transactions involving services, shall have agreed upon the fair price or value of the property, or right or interest therein passing by such transaction, then such agreed price or value shall be the value of the property or right or interest

therein so passing by such transaction, provided such agreed price or value shall represent the actual fair value of the property or right or interest therein, and such transaction is wholly bona fide, and the value passing by the transaction has not been so fixed and agreed upon for the purpose of evading the payment of any transaction tax under the provision of this Act.

(b) The word "person" as used herein shall mean any individual, firm, co-partnership, corporation, association, joint adventure, agent, trustee, receiver, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is clearly disclosed by the context.

(c) The word "transaction" as used herein shall mean and constitute any dealings of every kind whatsoever between two or more persons as defined in subsection (b) of this section, wherein or whereby professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature are done or performed, or wherein and whereby any right, title, interest, right of enjoyment or right of possession in or to any tangible or intangible property of any description passes, or is, or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished or affected.

(d) The word "Comptroller" wherever the same occurs in this Act, shall mean the Comptroller of Public Accounts of the State of Texas.

(e) The word "State" wherever the name is used in this Act, shall mean the State of Texas.

(f) Wherever in this Act the word "taxpayer" is used it means the person as defined in subsection (b) of this section who is liable for the payment of a transaction tax hereunder.

Section 2. There is hereby levied, and shall be collected, as herein provided, a tax of one and six-tenths (1.6%) per cent on the amount of the actual value passing from one person to another, under or by virtue of, or in connection with each and every transaction as in this Act defined, taking place between two or more persons, and which tax shall be added to the value passing by the transaction, and be collected at the

time such transaction is consummated; provided, that in all cases where the amount of the value which passes by the transaction is fixed by law, the tax of one and six-tenths (1.6%) per cent of such value, shall be collected on the last sale transaction only. The enumeration in this Act of transactions which are subject to the tax imposed by this Act, shall not be deemed to exclude other taxable transactions not included in such enumeration. Said tax shall be known as a "Transaction Tax".

Section 3. The following transactions shall be exempt from the transaction tax herein levied:

(a) Salaried, wages and professional fees paid or received by individuals.

(b) The first sale transaction by the producer of all horticultural, agricultural, livestock, poultry and dairy products;

(c) Transactions whereby single passenger fares not exceeding ten (10) cents are collected by street railway companies, or by motor bus carriers from customers for local transportation.

(d) Street sales of newspapers.

(e) Transactions consisting of sales, subscriptions and donations made to bona fide unemployment relief associations, bona fide charitable organizations and the Salvation Army, operating exclusively for the benefit and welfare of the community where located, and each of which organizations dispenses to charity not less than eighty (80) per cent of its gross revenues.

(f) Bona fide church and religious organizations, bona fide unincorporated cemetery associations operated without profit for the exclusive benefit of its members, bona fide labor organizations, and bona fide business leagues, chambers of commerce and boards of trade operating exclusively for the benefit of the community where located, and each of such organizations and associations shall not be required to pay any tax on transactions under the provisions of this Act, provided such organization or association is not organized for profit and no part of such organization's or association's income inures to the benefit of any private individual.

(g) The mere act of cashing, honoring, or certifying a check or depositing money or funds in a bank author-

ized by law to transact a banking business, or depositing money or funds in escrow, when taken alone, or when merely incidental to a transaction as defined in subsection (c) of Section 1, of Article IV of this Act, shall not be subject to a transaction tax under this Act.

(h) Transactions between the State of Texas and foreign countries and nations.

(i) Transactions between the State of Texas and other States of the United States of America.

(j) Transactions based upon interest and other earnings paid upon bonds secured as issued by the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(k) Transactions based upon pensions and other emoluments received from the United States of America, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(l) Transactions involving receipt of taxes, forfeitures, fines, costs, cost deposits and fees received by any officer or agent of the Government of the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(m) Transactions based upon interstate commerce, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(n) All transactions similar to the exempted transactions set forth in subparagraphs (i), (j), (k), (l) and (m) of this Section shall be exempt from said transaction tax, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions;

(o) Transactions where the taxpayer is involved in the transaction as an officer or agent collecting taxes, fees, forfeitures, fines and costs for the State of Texas or for any political subdivision of the State of Texas.

Section 4. The production of any natural resource of this State shall

be subject to this transaction tax based on the value of such production, and from and after September 1st, 1939, such tax shall be fully effective as of the date of production or severance of such natural resource, the same as though a sale thereof had then been made, and such tax shall be paid by the person owning the natural resource produced or severed.

Section 5. If for any reason a final judgment shall be entered by any of the Courts of the State of Texas, or of the United States of America that the transaction tax provided for herein cannot be levied upon the production of an industry engaged in developing the natural resources of this State, then in that event a severance tax of one and six tenths (1.6%) per cent of the value of such production shall be, and hereby is levied on said production in lieu of said transaction tax.

Section 6. All of the proceeds of the transaction tax herein provided for shall be credited to the Texas Old Age Assistance Fund and shall be used exclusively for such purposes as may be required by the Constitution of this State, and the cost of collecting said tax and the administering of this Act; provided, that at least thirty (30) days prior to the convening of each biennial session of the Legislature, beginning with such biennial session in the year of 1941, the State Treasurer of this State shall examine the condition of the Texas Old Age Assistance Fund, and when after meeting all obligations for the preceding biennium, it is found by him that a surplus of as much as twenty-five (25) per cent of the cost of meeting such obligations during the previous biennium has accumulated, then in that event such surplus in excess of twenty-five (25) per cent shall be transferred by said State Treasurer to the credit of the General Fund of the State, without any action by the Legislature directing such transfer.

Section 7. All funds representing transaction tax shall be transmitted or paid to the Comptroller of Public Accounts of this State, and shall be by him delivered to the State Treasurer to be placed to the credit of the Texas Old Age Assistance Fund.

Section 8. All taxes levied hereunder shall be paid as follows:

(a) On all transactions involving services as herein provided where

the transaction tax is not paid by the affixing of transaction tax stamps as herein required, the taxes levied herein shall be added to the value of such service, and be collected by the person performing such services from the person receiving such services, at the time of the consummation of such transaction, and the person so performing such services shall account for and pay such taxes to the Comptroller of Public Accounts of this State, as in this Act provided.

(b) On all transactions wherein or whereby any tangible or intangible property of any and every description, or any right, title, interest, estate, right of enjoyment, or right of possession therein passes, and the transaction tax levied by this Act is not paid by the affixing of transaction tax stamps as herein provided, the taxes herein levied on each and every transaction, shall, at the time of the consummation of such transaction be added to the value passing by such transaction and be collected by the person selling, delivering, transferring or conveying such property or right or interest therein, and such person so selling, delivering, transferring or conveying such property or right or interest therein shall account for and pay such taxes to the Comptroller of Public Accounts of this State, as in this Act provided.

(c) On all transactions wherein or whereby tangible or intangible property or any right, title, interest, estate, right of enjoyment or right of possession therein, shall be exchanged, and the transaction tax is not paid by the affixing of transaction tax stamps as herein provided, the taxes herein levied shall be accounted for, reported and paid to the Comptroller of Public Accounts of this State as herein required, by each party to such exchange of property, in accordance with and based upon the value of the property or right or interest therein of each such party which by said transaction passes to the other party or parties to said transaction.

(d) Any and every transaction shall be deemed to be consummated within the meaning of this Act at the time;

(1) The services involved in any transaction shall be actually charged against or could be demanded from the recipient of such services, provided that if such services are evi-

denced by a written contract such transaction shall be deemed consummated upon the execution of said contract.

(2) The tangible or intangible property, or any right, title, interest, estate, right of enjoyment or right of possession therein which is the subject of the transaction is delivered by one party to the transaction, to the other, or upon the execution of any contract or instrument wherein or whereby any such right, title, interest, estate, right of enjoyment or right of possession in and to any tangible or intangible property shall or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished or affected.

(e) Any and all taxes herein levied and which are not required to be paid by the affixing of transaction tax stamps, may be paid by the person to such transaction receiving the tangible or intangible property or right or interest therein, to the person so selling, transferring, or conveying or delivering such property, with transaction tax tokens herein provided for, or lawful money of United States of America, or such equivalent thereof as the person so selling, transferring, conveying or delivering such property may accept, provided however, the failure of said person so selling, transferring, conveying or delivering such property to collect any such taxes shall not excuse such person from accounting, reporting and paying all such taxes to the Comptroller of Public Accounts of this State as herein required.

(f) All persons as defined in this Act who are subject to the payment of any transaction tax, other than such tax as is required to be paid by the affixing of stamps as herein provided, shall on the 15th day of December, 1939, pay said transaction tax to the Comptroller of Public Accounts of this State, as shall have accrued up to December 1, 1939, and thereafter beginning with April 25, 1940, said tax shall be paid in four (4) quarterly installments each year on or before the following dates: January 25, April 25, July 25, and October 25, and the tax paid on the twenty-fifth day of each of said months, as above referred to, shall be for the three months period immediately preceding the first day of the month when the tax is required to be paid. Any person failing to pay the

tax when due shall be required to pay in addition to such tax, a penalty of twenty-five (25) per cent of the amount of such tax, provided such tax and penalty be paid within ten (10) days from the time it became due, and if such tax be paid more than ten (10) days, and less than sixty (60) days, after the same becomes due in addition to the amount of such tax, a penalty of fifty (50) per cent of the amount of such tax shall be paid, and if such tax be paid sixty (60) or more days after said tax became due, then in addition to the amount of said tax, a penalty of one hundred (100) per cent of such tax shall be paid. In any case where it becomes necessary for the State to file suit for the collection of taxes and/or penalties due under this Act, and unpaid, the State shall be entitled to recover from such taxpayer, double the amount of the tax due from such taxpayer, and in addition thereto, all court costs and attorneys' fees incurred by the State in the prosecution of such suit.

Section 9. All suits for the collection of any tax due under the provisions of this Act, and all suits brought by any taxpayer against the Comptroller of Public Accounts of this State to restrain or enjoin such Comptroller from enforcing any of the provisions of this Act or the collection of the transaction tax levied herein, shall be instituted in a court of competent jurisdiction in Travis County, Texas, and venue of all such suits is hereby fixed exclusively in said Travis County, Texas.

Section 10. No restraining order or injunction shall be granted by any court against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin such Comptroller from enforcing any provisions of this Act or the collection of any taxes levied by this Act, unless prior to the filing of any such suit the taxpayer or plaintiff shall have paid into the suspense account kept by the State Treasurer of this State, all transaction taxes then due by such taxpayer or plaintiff to the State, and the Court shall not entertain any such suit unless the taxpayer or plaintiff or his attorney or agent, in the petition for restraining order or injunction shall under oath, allege the payment of all such taxes into such suspense account. In the event the injunction is finally dissolved or dis-

missed all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the Texas Old Age Assistance Fund. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes the funds so deposited shall be refunded by the Treasurer to said applicant. No person required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the Comptroller of Public Accounts, to restrain the collection of the tax levied herein, except such person, firm, association or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the Comptroller of Public Accounts all taxes, fees, and assessments due by him under the provisions of this Act, and said restraining order or injunction shall, in no way, interfere with or impair the power of the Comptroller of Public Accounts of this State to collect and enforce the payment of the taxes, fees and penalties involved in any litigation with taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as herein before provided.

Section 11. The Comptroller of Public Accounts of this State shall have authority to prescribe and publish uniform and equitable rules and regulations for determining the value passing by any transaction which may be used as the basis for the tax levied, and other rules and regulations for the enforcement of this Act and the collection of the taxes herein authorized, not inconsistent with this Act or with the Constitution of the United States or the Constitution of this State, and the taxpayer shall comply with such rules and regulations. And for the purpose of enabling the Comptroller to determine the tax liability of persons, firms, partnerships, companies, corporations, associations and others, the Comptroller is hereby authorized to require

the registration of such persons, firms, partnerships, companies, corporations, associations, and others, as in his judgment is necessary for the enforcement of the provisions of this Act. Likewise the Comptroller shall have authority to require such reports and to demand and secure such information as may be necessary to secure the enforcement of this Act. The Comptroller shall have the right to examine the books, records, and accounts of any person, firm, partnership, company, corporation or association in this State, if the Comptroller believes that such person, firm, partnership, company, corporation or association is subject to the tax herein levied. Any information secured by the Comptroller in the enforcement of this Act shall be regarded as confidential information and shall be used only for the purpose of enforcing the payment of taxes herein authorized.

Section 12. It shall be unlawful for any person employed by the State in the office of the Comptroller of Public Accounts to divulge or disclose to any person other than such Comptroller any information or facts which may have been disclosed to or obtained by the said Comptroller, or under his authority, through or by reason of any examination of any books, records, accounts, or documents of any taxpayer as provided by Section 11 of Article IV of this Act, unless required to do so by order of a court or Judge thereof. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined One Hundred (\$100.00) Dollars and be confined in the county jail for thirty (30) days, and shall be summarily discharged as an employee of this State, and shall not thereafter at any time be re-employed in any capacity in any department of the State Government.

Section 13. It shall be the duty of the Comptroller, within the limits of the provisions of this Act, to prescribe all forms and to maintain all records necessary for a proper enforcement of this Act, as well as to furnish such forms and information as may be requested by taxpayers when the furnishing of such information is necessary to enable them to comply promptly with the provisions of this Act. Provided, however, that the taxes herein levied shall be ef-

fective on the date this Act becomes effective as herein fixed and it is the responsibility of the taxpayer to make prompt payment of taxes as provided for in this Act. The failure of the Comptroller of Public Accounts to furnish forms and information shall be no defense against the failure of the taxpayer to pay taxes herein levied.

Section 14. The State Board of Control is hereby authorized to design and have manufactured metal tokens of such size and denominations and in such quantities as may be determined by said State Board of Control provided however the unit of token shall be of the value of sixteen one hundredths (.16) of one (1) cent, and the smallest token shall have a value of sixteen one hundredths (.16) of one (1) cent and where the value passing by a transaction is ten (10) cents or less, the tax shall be one (1) token of the denomination of sixteen one hundredths (.16) of one (1) cent and for each additional ten (10) cents of value or fraction thereof, the tax shall be an additional token.

Section 15. The State Board of Control is hereby authorized to design and have printed transaction tax stamps of such size and denominations, and in such quantities as may be determined by the said State Board of Control. The stamps shall be so manufactured as to render them easy to be securely attached to documents, provided, that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or any other method of identification may be adopted as said Board may decide.

Section 16. The printing or manufacturing of said transaction tax stamps, and the manufacturing of said transaction tax tokens shall be awarded by competitive bids, and contract in each case shall be by said State Board of Control awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act. Upon the receipt by the State Board of Control of such stamps and tokens, the same shall be by said Board delivered to the State Treasurer of this State, and said State Treasurer shall sell and deliver the same to any and all persons upon payment of the

face value thereof, and the State Treasurer shall be responsible for the custody and sale of such stamps and tokens and for the proceeds of all sales thereof under his official bond.

Section 17. (a) The State Board of Control is hereby authorized to change the design, size and denominations of all stamps and tokens as said Board may deem necessary to effect the best enforcement of this Act, and the State Treasurer is hereby required to redeem at face value any unused stamps lawfully issued as well as any lawfully issued tokens, prior to any such change in the design or designs, which are in the possession of any bona fide owner thereof, by exchanging at face value stamps and/or tokens of the new design or designs. Whenever any change is made in the design, size or denominations of such stamps and/or tokens, every person holding stamps and/or tokens of the old design shall be required to send them to the State Treasurer for exchange at face value, for stamps and/or tokens of the new design. Any such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and/or tokens, and it shall be unlawful for any person to have in his possession any stamps and/or tokens of an old design after sixty (60) days from the date of issue of any new design, provided, that after sixty (60) days from the date of issue of any new design of stamps and/or tokens, the old design or designs shall be void. It shall be the duty of the State Treasurer upon receipt of any new design or designs of stamps and/or tokens authorized by the State Board of Control to designate the date of issue of such new design or designs by the issuance of a proclamation, and the date of such proclamation shall be the date of issue of the new design or designs of stamps and/or tokens.

(b) Any person who shall have in his possession any transaction tax stamps or any transaction tax tokens of any old design after sixty (60) days from the date of issue of a new design of stamps, or a new design of tokens, and shall wilfully pass or attempt to pass the same, shall be guilty of a felony, and upon conviction of a violation of this provision shall be punished by imprisonment in the penitentiary of the State for not less

than two (2) years, nor more than five (5) years.

(c) Transaction tax stamps and transaction tax tokens may be exchanged only when proof satisfactory to the State Treasurer is furnished that any such stamps or tokens were properly purchased and paid for by the person offering to exchange the same; provided further that stamps or tokens which are effaced or mutilated in any manner may be refused for acceptance in exchange by said State Treasurer.

(d) The State Treasurer shall keep a record of all stamps and tokens sold by him or under his direction, as well as all stamps or tokens exchanged by him and all refunds made on stamps or tokens purchased.

(e) Stamps in unbroken sheets of one hundred (100) stamps may be exchanged with the State Treasurer only, for stamps of a different denomination. The State Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each, to the person who purchased said stamps, provided, proof satisfactory to said State Treasurer is furnished that any stamps upon which a refund is requested, were properly purchased from said State Treasurer and paid for by the person requesting such refund. Such refund shall be made out of the Texas Old Age Assistance Fund.

Section 18. All remittances of taxes imposed by this Act, except where such tax is paid by affixing transaction tax stamps to instruments and documents as in this Act provided, shall be made to the Comptroller of Public Accounts of the State of Texas, by money, transaction tax tokens, or exchange, acceptable to said Comptroller, provided, that no remittance other than cash or such tokens shall discharge the liability for the tax or penalty attempted to be paid thereby, unless and until it has been paid in cash to said Comptroller.

Section 19. Whenever any transaction which is subject to a transaction tax within the meaning of this Act, shall be evidenced by any written instrument, document or memorandum, the person or persons executing such instrument, document or memorandum shall pay such tax by securely affixing to such instrument,

document or memorandum at the time the same is executed a transaction tax stamp or stamps equal to the amount of such transaction tax, and cancelling such stamp or stamps. Any person who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars.

Section 20. No written instrument or document evidencing a transaction which is subject to a transaction tax under the provisions of this Act, shall be received, filed, recorded or registered by any public official of the State of Texas or any public official of any political subdivision of the State of Texas, unless such instrument or document has affixed thereto and cancelled, transaction tax stamps for the amount of such tax as required by this Act.

Section 21. When any transaction is evidenced by more than one written instrument, document or memorandum, and one of such written instruments or documents is subject to filing, recordation or registration with any public official of this State or any political subdivision thereof, the transaction tax stamps required to be affixed to any such instrument, shall be so affixed to such instrument or document which is so subject to filing, recordation or registration, and the remaining instruments evidencing such transaction shall have written thereon a statement that transaction tax stamps required by law have been affixed to another instrument, and naming such instrument.

Section 22. No written instrument, document or memorandum evidencing a transaction which is subject to a transaction tax under the provisions of this Act, shall be received or admitted in evidence in any suit, proceeding or hearing in any of the Courts of this State or in any proceeding or hearing before any Board, Department or Agency of the State Government of the State of Texas, unless such instrument, document or memorandum shall have affixed thereto and cancelled, transaction tax stamps for the amount of tax as required by this Act, provided, that where any instrument evidencing any transaction subject to tax has affixed thereto transaction tax stamps suf-

ficient to pay the tax on such transaction, this section shall not apply to the remainder of the instruments, documents or memorandums which shall be a part of such transaction.

This section shall not apply to any instrument, document or memorandum executed prior to the effective date of this Act.

Section 23. The provisions contained in Sections nineteen (19) twenty (20) and twenty-one (21) of Article IV of this Act shall not apply to instruments taken by or on behalf of the United States of America or any agency or instrumentality of the United States Government in carrying out a governmental purpose as expressed in any Act of the Congress of the United States of America.

Section 24. (a) Three Hundred and Fifty Thousand (\$350,000.00) Dollars or so much thereof as may be necessary, is hereby appropriated out of the General Fund of the State to defray the cost of administration and of collecting the taxes levied in and by this Act, during the period beginning June 15, 1939, and ending June 15, 1940; provided, that out of the first taxes collected under the provisions of this Act, the State Treasurer of the State shall credit the General Fund of this State with Three Hundred and Fifty Thousand (\$350,000.00) Dollars as reimbursement to cover this appropriation.

(b) Three Hundred Thousand (\$300,000.00) Dollars or so much thereof as may be necessary, is hereby appropriated out of the Texas Old Age Assistance Fund created by this Act to defray the cost of administration and of collecting the taxes levied in and by this Act, during the period beginning June 15, 1940, and ending June 15, 1941.

Section 25. The Comptroller of Public Accounts of the State is hereby authorized to set up in his office a department to be charged especially with the responsibility and duty of administering all of the tax provisions of this Act and the collection of the taxes herein levied. He is authorized to employ such personnel as may be necessary to perform the duties assigned to him and his office in the administration of this Act. The salaries of persons employed shall not exceed the salaries of other State employees performing similar services, nor shall the traveling expenses

of such employees exceed the limit set by law for employees of other departments of the State Government.

Section 26. The State Treasurer in addition to opening and maintaining in his office the Texas Old Age Assistance Fund, shall also open and maintain three special funds, as follows: (a) Confederate Soldiers Pension Fund; (b) Destitute Children's Assistance Fund, and (c) Teacher's Retirement Fund. All of the proceeds of the transaction tax herein levied, as received by the State Treasurer from the Comptroller of Public Accounts, shall be by the State Treasurer credited to the Texas Old Age Assistance Fund.

Section 27. Between January 1, 1940, and July 1, 1940, the State Treasurer shall transfer from the Texas Old Age Assistance Fund to the said Destitute Children's Assistance Fund the sum of One Million Five Hundred Thousand (\$1,500,000.00) Dollars to meet the obligations of this State as authorized by Section 51d of Article III of the Constitution of this State, and annually thereafter said State Treasurer shall during the first six (6) months of each year transfer from said Texas Old Age Assistance Fund to said Destitute Children's Assistance Fund such an amount, not to exceed One Million Five Hundred Thousand (\$1,500,000.00) Dollars as may be necessary, together with any money or funds remaining in such Destitute Children's Assistance Fund to meet legislative appropriations authorized for such purpose. Such fund, or so much thereof as may be necessary shall be used exclusively for the payment of assistance to destitute children, and the State's portion of the cost of administering said fund.

Section 28. Between January 1, 1940 and July 1, 1940, the State Treasurer shall transfer from the Texas Old Age Assistance Fund, to the said Teachers Retirement Fund, an amount adequate to meet the obligations of this State which has accrued during the period beginning January 1, 1939 and ending January 1, 1940, as provided for in Section 48a of Article III of the Constitution of this State, and annually thereafter said State Treasurer shall during the first six (6) months of each year, transfer from said Texas Old Age Assistance Fund, to said Teachers Re-

tirement Fund such an amount as may be necessary to meet the obligations of the State as provided for in said Section 48a of Article III of the Constitution of this State. Such Fund, or so much thereof as may be necessary, shall be used exclusively for the payment of teachers retirement pensions, and the State's portion of the cost of administering such fund.

Section 29. Between January 1, 1941 and July 1, 1941 the State Treasurer shall transfer from the Texas Old Age Assistance Fund, to the Confederate Soldiers Pension Fund, the sum of Two Million Dollars (\$2,000,000.00) and annually thereafter the said State Treasurer shall during the first six (6) months of each year transfer from said Texas Old Age Assistance Fund to said Confederate Soldiers Pension Fund such sum as shall be adequate to pay Confederate Soldiers Pensions as now or hereafter may be authorized by law, and such fund, or so much thereof as may be necessary shall be used exclusively for the payment of Confederate Soldiers pensions.

Section 30. On and after January 1, 1940, Old Age Assistance, and Destitute Children's Assistance, and Teachers Retirement pensions and the State's portion of the cost of administration thereof shall be paid exclusively from the revenue derived from the transaction taxes herein levied, and no appropriation shall thereafter be made out of any other State funds for any such purposes nor shall any other taxes be levied for the payment of Old Age Assistance, or for Destitute Children's Assistance, or for Teachers Retirement Pensions, or the State's portion of the administration thereof.

Section 31. On and after January 1, 1941 Confederate Soldiers Pensions shall be paid exclusively from the revenue derived from the transaction taxes herein levied, and no appropriation shall thereafter be made out of any other State funds, nor shall any other taxes be levied for the payment of Confederate Soldiers pensions.

Section 32. If after the State Treasurer has transferred and credited to the Confederate Soldiers Pension Fund, the Destitute Childrens Assistance Fund, and Teachers Retirement Fund the respective amounts required to be transferred and credited to such respective funds, it ap-

pears that the revenue remaining will not be adequate to pay in full all grants made to recipients of old age assistance, then, in that event the revenue remaining shall be paid pro rata to such recipients of old age assistance based on the amount granted to each recipient, and the amounts thereafter paid for old age assistance shall continue on this same basis until it shall appear that the annual revenue will warrant payment on the higher basis.

Section 33. It shall be unlawful for any person to fail or refuse to make any report, tax return or information return provided to be made by this Act, or required by any regulation promulgated by the Comptroller of Public Accounts of this State, or to make any false or fraudulent tax return, or false statement in any tax return or report, with intent to defraud this State or to evade the payment of the tax, or any part thereof, imposed by this Act; or for the president, vice-president, secretary or treasurer of any corporation, association or company to make or permit to be made for any corporation, association or company any false tax returns, or any false statement in any tax or information return, or report required by this Act or the regulations promulgated by the Comptroller of Public Accounts of this State, with the intent to evade the payment of any tax imposed by this Act; or for any person to fail or refuse to permit the examination of any book, paper, account, record or other data by the Comptroller of Public Accounts of this State, or his agent as required by this Act, or by any regulation promulgated by said Comptroller; or for any person to use any artful device or deceptive practice to conceal any violation of this Act; or for any person to mislead or deceive the Comptroller of Public Accounts of this State, or his authorized representative in the enforcement of this Act; or for any person to fail or refuse to comply with the provisions of this Act; or for any person to fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts of this State, or violate the same. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred (100) Dollars nor more

than One Thousand (1000) Dollars, or imprisoned in the county jail not exceeding sixty (60) days, or punished by both said fine and imprisonment, at the discretion of the Court.

In addition to the foregoing penalties and any other penalties fixed by this Act, any person who shall knowingly swear to or verify any false or fraudulent statement with the intent of defrauding the State of Texas or evading the payment of any tax imposed by this Act, shall be guilty of the offense of perjury, and upon conviction thereof, shall be punished in the manner required by law.

Section 34. If any Section, subsection, subdivision, paragraph, sentence, clause or word of this Act be held invalid or unconstitutional, the remaining portions of same shall, nevertheless be valid; and it is declared that such remaining portions would have been enacted, notwithstanding such unconstitutional portion thereof.

Section 35. That all of Articles I and II of House Bill No. 8 passed at the Third Called Session of the Forty-fourth Legislature as amended by Senate Bill No. 415 of the Acts of the Forty-fifth Legislature, Regular Session, be and the same hereby are repealed; that all laws and parts of law in conflict herewith are hereby repealed, provided however, that all of Articles III, IV and V of House Bill No. 8 passed at the Third Called Session of the Forty-fourth Legislature as amended by House Bill No. 441 of the Acts of the Forty-fifth Legislature, Regular Session and House Bill No. 377 of the Acts of the Forty-fifth Legislature, Regular Session, shall be and continue in full force and effect, and this Act shall be cumulative thereof.

Section 36. That Article III, Chapter 495, Acts of the Forty-fourth Legislature, Third Called Session, be amended by adding thereto Section 7, which such Section shall read as follows:

"Section 7. On and after January 1, 1940, all net revenue derived from the tax levied on cigars, cigarettes or tobacco in any form shall be allocated to the Available School Fund of the State. All of the net revenue derived from taxes levied in said Article III, Chapter 495, Acts of the Forty-fourth Legislature, Third Called Session which is now placed in the Available School Fund shall continue to go to

said Available School Fund. All other taxes levied in said Article which are now credited to the Old Age Assistance Fund, shall on and after January 1, 1940, be allocated to, and credited to the General Fund."

Section 37. All laws and parts of laws which are in conflict with the provisions of said Section 7 as set forth in the foregoing paragraph of this Act, are hereby repealed to the extent, and to the extent only, that they are in conflict with this Act.

Section 38. None of the provisions of this Act shall be effective or have any force or effect unless prior to September 1, 1939, Section 51b of Article III, and Article VIII of the Constitution of this State shall be amended substantially as now proposed by Senate Joint Resolution No. _____ now pending before this session of the Legislature, by the qualified voters of this State at an election to be held in this State on the first Saturday in June of the year 1939, and if said amendment to the Constitution of this State be adopted at such election, then, in that event this Act shall be fully effective and be in full force and effect from and after September 1, 1939.

Section 39. The fact that the present law of this State does not sufficiently define the qualifications of those who are entitled to receive old age assistance benefits, and that the revenue now available for such old age assistance benefits, is wholly inadequate, creates an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended and the same is hereby suspended and that this Act shall take effect and be in force at the time and under the conditions set forth in Section 38 of Article IV of this Act.

SENATE RETIRES

At the conclusion of the address, the Senate, at 3:05 o'clock p. m., retired to the Senate Chamber.

(Mr. Leonard in the Chair.)

RELATIVE TO POET-LAUREATE OF THE STATE OF TEXAS

Mr. Chambers offered the following resolution:

H. C. R. No. 8, Relative to Poet-Laureate of the State of Texas.

Whereas, It is a custom among many of the States of this Union to

encourage the advancement of literature by each year designating the most outstanding person in literary accomplishments as Poet-Laureate of the State; and

Whereas, Mrs. Lexie Dean Robertson of Rising Star, Texas, has by her splendid efforts in the field of poetry attracted the attention of the country; and

Whereas, Her work has received the highest commendation by our most competent critics at home and abroad; therefore, be it

Resolved by the House, the Senate concurring, That Mrs. Lexie Dean Robertson of Rising Star, Texas, be, and hereby is declared Poet-Laureate of the State of Texas for the year 1939, and that this resolution be printed in the Journal of the House.

CHAMBERS,
HOWINGTON,
DAVIS of Upshur,
CROSSLEY,
BURKETT,
REAVES,
CLARK,
BRADBURY.

The resolution was read second time.

On motion of Mr. Chambers, the resolution was tabled.

PROVIDING FOR THE APPOINTMENT OF A COMMITTEE FOR THE PURPOSE OF SELECTING POET LAUREATE OF THE STATE

Mr. Hull offered the following resolution:

H. C. R. No. 12, Providing for the appointment of a committee for the purpose of selecting Poet Laureate of the State.

Whereas, It has in the past been a policy of the Legislature to select a Poet Laureate for the State of Texas; be it

Resolved, That the Speaker of the House appoint three Members of the House and the President of the Senate appoint three Members of the Senate to meet in joint conference for the purpose of selecting some worthy person upon whom this honor may be bestowed.

The resolution was read second time, and was adopted.

NAMING ELIZABETH DWYER AND PATRICIA DWYER MASCOTS OF THE HOUSE

Mr. Anderson offered the following resolution:

H. S. R. No. 60, Naming Elizabeth Dwyer and Patricia Dwyer Mascots of the House.

Whereas, We have with us two proper persons for the office of Mascot of the House of Representatives of the Forty-sixth Legislature; now, therefore, be it

Resolved, That Elizabeth Dwyer and Patricia Dwyer, granddaughters of one of our distinguished Members, the Honorable Pat Dwyer, of San Antonio, be hereby officially named by this House as Mascots of the House of Representatives of the Forty-sixth Legislature of the State of Texas; and, be it further

Resolved, That the said Mascots have their pictures made and placed with the official group of this body.

The resolution was read second time, and was adopted.

NAMING PHIL FERGUSON MASCOT OF THE HOUSE

Mr. Lock offered the following resolution:

H. S. R. No. 61, Naming Phil Ferguson Mascot of the House.

Whereas, Phil Ferguson, the son of one of our distinguished Members of the Forty-sixth Legislature, Walter A. Ferguson, is a proper person to be named as Mascot of the House of Representatives; now, therefore, be it

Resolved, That Phil Ferguson be declared one of the official Mascots of the House of Representatives of the Forty-sixth Legislature of the State of Texas; and, be it further

Resolved, That the said Mascot have his picture made and placed in the official group of this body, and that a copy of this resolution be given to him.

LOCK,
LEONARD.

The resolution was read second time, and was adopted.

NAMING SHIRLEY ANN TAYLOR MASCOT OF THE HOUSE

Mr. Kinard offered the following resolution:

H. S. R. No. 62, Naming Shirley Ann Taylor Mascot of the House.

Whereas, We have with us now a proper person for office of Mascot of the House of Representatives of the Forty-sixth Legislature; now, therefore, be it

Resolved, That Shirley Ann Taylor, age six, daughter of one of our distinguished Members, Honorable James Taylor of Kerens, Texas, be hereby officially named by this House as Mascot of the House of Representatives of the Forty-sixth Legislature of the State of Texas; and, be it further,

Resolved, That the said Mascot have her picture made and placed in the official group of this body.

KINARD,
SKILES,
DERDEN,
KERN.

The resolution was read second time, and was adopted.

PROVIDING FOR THE PURCHASE OF TEXAS STATUTES FOR MEMBERS OF THE HOUSE

Mr. Hale offered the following resolution:

H. S. R. No. 52, Providing for the purchase of Texas statutes for Members of the House.

Whereas, The supply of Texas statutes in the library is insufficient to meet the demands of the Members of the Legislature; and

Whereas, It frequently becomes necessary that these statutes be consulted by the Members concerning bills and resolutions which they desire to study; and

Whereas, Copies of these statutes can be obtained at a reasonable rate by a wholesale purchase of same; therefore, be it

Resolved, That the Committee on Contingent Expenses of the House of Representatives be, and hereby is, instructed to purchase such a number of the 1936 Centennial Edition, Revised Civil Statutes of Texas of 1925, and all supplementary volumes thereunto appertaining, as may be required; and be it further

Resolved, That the charge for each Member's volume be placed as a debit

to his account of One Hundred (\$100.00), Dollars as allowed by the House for contingent expenses; and be it further

Resolved, That any Member desiring a copy of these statutes shall file with the Committee on Contingent Expenses an application stating his desire for said volume; and this application shall be full authority to the committee to charge said amount against that Member's contingent expenses account.

HALE,
McMURRY.

The resolution was read second time, and was adopted.

PROVIDING FOR THE PRINTING OF PRAYER BY THE CHAPLAIN

Mr. Weldon offered the following resolution:

H. S. R. No. 64, Providing for the printing of Prayers by the Chaplain.

Whereas, The prayers of our Chaplain, Rev. George W. Coltrin, give us faith and inspiration and are a very important part of the proceedings of this body; and

Whereas, His prayers are always beautiful literary compositions worthy of record; now, therefore, be it

Resolved, That his prayers be spread upon the pages of the House Journals.

WELDON,
SPENCER.

The resolution was read second time, and was adopted.

NAMING MISS BEVERLY ANN MONTGOMERY MASCOT OF THE HOUSE

Mr. Holland offered the following resolution:

H. S. R. No. 65, Naming Beverly Ann Montgomery Mascot of the House.

Whereas, Miss Beverly Ann Montgomery, the four months old daughter of one of our distinguished Members of the Forty-sixth Legislature, the Honorable William C. Montgomery, of Harris County, is a proper person to be named Mascot of the House of Representatives; now, therefore, be it

Resolved, That Beverly Ann Montgomery be declared one of the official Mascots of the House of Representatives of the Forty-sixth Legislature

of the State of Texas; and, be it further

Resolved, That the said Mascot have her picture made and placed in the official group of this body, and that a copy be given to her.

KINARD,
HOLLAND.

The resolution was read second time, and was adopted.

NAMING BILL McDONALD MASCOT OF THE HOUSE

Mr. Blankenship offered the following resolution:

H. S. R. No. 66, Naming Bill McDonald Mascot of the House.

Whereas, We have with us now a proper person for the office of one of the Mascots of the House of Representatives of the Forty-sixth Legislature; and

Whereas, The House of Representatives has heretofore selected and elected other Mascots for the House of Representatives of the Forty-sixth Legislature; now, therefore, be it

Resolved, That Bill McDonald, of Bryan, Texas, eighteen months old nephew of our fellow Member, the Honorable W. T. McDonald of Bryan, Texas, be hereby officially named by this House as one of the Mascots for the House of Representatives of the Forty-sixth Legislature of the State of Texas; and, be it further

Resolved, That the said Mascot have his picture made and placed with the official group picture of this body, and a copy of this resolution be given him.

The resolution was read second time, and was adopted.

NAMING STUART EDWARD KINARD MASCOT OF THE HOUSE

Mr. Riviere offered the following resolution:

H. S. R. No. 67, Naming Stuart Edward Kinard Mascot of the House.

Whereas, We have with us now a proper person for office of Mascot of the House of Representatives of the Forty-sixth Legislature; now, therefore be it

Resolved, That Stuart Edward Kinard, son of Hon. Dewitt Kinard, of Port Arthur, Texas, be hereby officially named by this House as Mascot of the House of Representatives of

the Forty-sixth Legislature of the State of Texas; and be it further

Resolved, That the said Mascot have his picture made and placed in the official group of this body.

The resolution was read second time, and was adopted.

NAMING LOUISE SNOW PHINNEY II MASCOT OF THE HOUSE

Mr. Thornton offered the following resolution:

H. S. R. No. 69, Naming Louise Snow Phinney II Mascot of the House.

Whereas, Louise Snow Phinney II, daughter of two former officials of the Texas Legislature, Mrs. Louise Snow Phinney I, who for twelve years served as Chief Clerk of the House of Representatives, and Carl Phinney, who for seven years preceding Mrs. Phinney served as Chief Clerk of the House of Representatives, is a proper person for Mascot of the House of Representatives; now, therefore be it

Resolved, That Louise Snow Phinney II, aged four months, daughter of Louise Snow Phinney I and Carl Phinney of Dallas, Texas, be hereby officially named by this House as Mascot of the House of Representatives of the Forty-sixth Legislature of the State of Texas; and, be it further

Resolved, That the said Mascot have her picture made and placed in the official group of this body.

THORNTON,
HARTZOG,
HANKAMER.

The resolution was read second time, and was adopted.

NAMING PATRICIA ANN HIGGS AND JOAN WESTMORELAND MASCOTS OF THE HOUSE

Mr. McNamara offered the following resolution:

H. S. R. No. 70, Naming Patricia Ann Higgs and Joan Westmoreland Mascots of the House.

Whereas, The House of Representatives has heretofore selected and elected other Mascots of the House of Representatives of the Forty-sixth Legislature; and

Whereas, We have in our midst two lovely and charming young ladies, Misses Patricia Ann Higgs and Joan Westmoreland, relatives of Honorable Neveille H. Colson, member of the

House of Representatives; now, therefore be it

Resolved, That Patricia Ann Higgs and Joan Westmoreland be hereby officially named by this House as Mascots of the House of Representatives of the Forty-sixth Legislature of the State of Texas; and, be it further

Resolved, That the said Mascots have their pictures made and placed with the Members of the House in the official group of this body and a copy of this resolution be given to them.

The resolution was read second time, and was adopted.

MEMORIALIZING CONGRESS IN REGARD TO OLD AGE ASSISTANCE

The Chair laid before the House, as unfinished business, House Simple Resolution No. 47, by Mr. Colquitt, memorializing Congress in regard to old age assistance.

The resolution having been read second time, on last Monday, with motion by Mr. Harris, to refer the resolution to the Committee on State Affairs, pending.

The motion by Mr. Harris prevailed.

RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled resolutions:

H. S. R. No. 39, Relative to sending representation to the Fourth General Assembly of the Council of State Government.

H. S. R. No. 26, Naming Ben Burney Mascot of the House.

H. S. R. No. 33, Naming Mainor Nelson Westbrook, Jr., Mascot of the House.

H. S. R. No. 41, Naming Beverly Jane Hull Mascot of the House.

H. S. R. No. 42, Naming Jean Fielden and V. A. Fielden, Jr., Mascots of the House.

H. S. R. No. 18, In memory of Hon. Joseph Sidney Wheelless.

H. S. R. No. 36, Naming Frederika Elizabeth Gordon Queen of the Mascots.

H. S. R. No. 29, Naming Thomas Hubbard Johnson as King of Mascots.

H. S. R. No. 19, In memory of Mrs. Mary Anna Ross.

H. S. R. No. 28, Naming Carolyn Calvert as Sweetheart of Mascots.

H. S. R. No. 49, In memory of Mrs. N. E. Reynolds.

H. S. R. No. 54, Naming Shirley Robinson as Mascot of the House.

H. S. R. No. 53, Naming Mary Elizabeth McFarland Mascot of the House.

H. S. R. No. 37, Naming John M. Mohrmann, Jr., Mascot of the House.

H. S. R. No. 31, In memory of Mr. W. J. Baker.

H. S. R. No. 17, Naming Janis Ruth Kersey Mascot of the House

H. S. R. No. 6, Naming Alicia Ann Reed and Barbara Mae Leonard Queen of Mascots.

H. S. R. No. 11, In memory of Hon. A. C. Dunn.

H. S. R. No. 23, In memory of Hon. Joshua M. Westbrook.

H. C. R. No. 13, Providing for a Joint Session at 2:00 o'clock Wednesday, January 18, for the purpose of hearing address of Governor W. Lee O'Daniel.

H. C. R. No. 5, In memory of John L. Darrouzet.

ADJOURNMENT

On motion of Mr. Keith, the House, at 3:40 o'clock p. m., adjourned until 10:00 o'clock a. m., tomorrow.

APPENDIX

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,

Austin, Texas, January 18, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 5, Deploring the passing of John L. Darrouzet.

Has carefully compared same and finds it correctly enrolled.

LINDLEY, Acting Chairman.

Austin, Texas, January 18, 1939.

Hon. R. Emmett Morse, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 13, Providing for a Joint Session, Wednesday, January 18,

Has carefully compared same and it finds it correctly enrolled.

LINDLEY, Acting Chairman.

In Memory of Mrs. Ella V. Spencer

Mr. Kennedy offered the following resolution:

H. S. R. No. 63, In memory of Mrs. Ella V. Spencer.

Whereas, The House of Representatives, with deep regret, has learned of the passing on January 12, 1939, of Mrs. Ella V. Spencer, 68, member of a well-known family of Henderson and Anderson Counties, and aunt of Representative James Spencer, sister-in-law of Sheriff Joel Baker of Henderson County, and the late Mayor John A. Spencer of Athens, from mortal sight into the Heavenly Realm of Him whose superior judgment is unquestioned; and

Whereas, Doctor W. R. White, now Pastor of the First Baptist Church of Oklahoma City and former Secretary of the Southern Baptist Convention of Texas, received early guidance as a ministerial student from Mrs. Spencer, who was a charter member of the First Baptist Church of Frankston, and had been active in religious affairs throughout her life; and

Whereas, The influence of her life will ever be a worthy example of religion; now, therefore, be it

Resolved by the House of Representatives, That upon adjournment today we do so in honor of her, and as a tribute to the life she lived; and, be it further

Resolved, That a copy of this resolution be spread upon the memorial pages of the House Journal of this day, and that the Chief Clerk of the House of Representatives send a copy of this resolution to the members of her family.

The resolution was read second time.

Signed—Morse, Speaker; Allen, Allison, Alsup, Anderson, Bailey, Baker of Fort Bend, Baker of Grayson, Bell, Blankenship, Bond, Boyd, Boyer, Bradbury, Bradford, Bray, Bridgers, Broadfoot, Brown of Cherokee, Brown of Nacogdoches, Bundy, Burkett, Burney, Cauthorn, Celaya, Chambers, Clark, Cleveland, Cockrell, Coleman, Colquitt, Mrs. Colson, Cornett, Corry, Crossley, Daniel, Davis of Jasper, Davis of Upshur, Dean, Derden, Dickison, Dickson, Donaghey, Dowell, Dwyer, Faulkner, Felty, Ferguson, Fielden, Fuchs, Galbreath, Gilmer, Goodman, Mrs. Gordon, Hale, Hamilton, Hankamer, Hardeman, Hardin, Harp, Harper, Harrell of Bastrop, Harrell of Lamar, Harris, Hartzog, Heflin, Holland, Howard, Howington, Hull, Hunt, Isaacks, Johnson of Ellis, Johnson of Tarrant, Keith, Kern, Kerr, Kersey, Kinard, King, Langdon, Lehman, Leonard, Leyendecker, Little, Lock, Loggins, London, Mays, McAlister, McDaniel, McDonald, McFarland, McMurry, McNamara, Mohrmann, Monkhouse, Montgomery, Morris, Newell, Nicholson, Oliver, Olsen, Pace, Petsch, Pevehouse, Piner, Pope, Ragsdale, Reader of Bexar, Reader of Erath, Reaves, Reed, Rhodes, Riviere, Roach, Roberts, Robinson, Russell, Schuenemann, Segrist, Shell, Skiles, Smith of Frio, Smith of Hopkins, Smith of Matagorda, Stinson, Stoll, Talbert, Tarwater, Taylor, Tennant, Thornberry, Thornton, Turner, Vale, Vint, Voigt, Waggoner, Weldon, Wells, Westbrook, White, Wilson, Winfree, Wood, Worley and Wright.

On motion of Mr. Wekdon, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

In Memory of Dr. S. J. Alexander

Mr. Rhodes offered the following resolution:

H. S. R. No. 68, In memory of Dr. S. J. Alexander.

Whereas, The House of Representatives has learned with regret of the death of Doctor S. J. Alexander, at the early age of 55, at his home in Hearne, Texas, in October, 1937; and

Whereas, The death of this distinguished physician at this early age terminated a life of usefulness and service and devotion to his State and his fellowman; and

Whereas, Doctor Alexander graduated from the Southwestern Medical College of Dallas, with the class of 1909, and served his internship at St. Paul and Parkland Hospitals in Dallas, and began the practice of medicine in Hearne, Texas, in 1912. At the time of his death he was a member of the State Board of Health, the American Medical Association, State Medical Association, having served as Vice President of this Association in 1923; and

Whereas, Doctor Alexander was also a member of the Brazos-Robertson County Medical Society, President of the Hearne Board of Education, Steward in the Methodist Church of Hearne, Texas; as well as a member of the Masonic Lodge, and Rotary Club; and

Whereas, A life of such distinguished service deserves recognition and tribute by his fellowman; now, therefore, be it

Resolved by the House of Representatives, That the Members thereof deeply regret the passing of this noble and worthy character, and that we extend our sincere sympathy to the surviving members of his family; and, be it further

Resolved, That when the House adjourns today it do so in memory of Doctor S. J. Alexander, that a page of the House Journal of today be dedicated to his memory and that the Chief Clerk of the House of Representatives be instructed to send copies of this resolution to the family of Doctor Alexander.

RHODES,
READER of Bexar.

The resolution was read second time.

Signed—Morse, Speaker; Allen, Allison, Alsup, Anderson, Bailey, Baker of Fort Bend, Baker of Grayson, Bell, Blankenship, Bond, Boyd, Boyer, Bradbury, Bradford, Bray, Bridgers, Broadfoot, Brown of Cherokee, Brown of Nacogdoches, Bundy, Burkett, Burney, Cauthorn, Celaya, Chambers, Clark, Cleveland, Cockrell, Coleman, Colquitt, Mrs. Colson, Cornett, Corry, Crossley, Daniel, Davis of Jasper, Davis of Upshur, Dean, Derden, Dickison, Dickson, Donaghey, Dowell, Dwyer, Faulkner, Felty, Ferguson, Fielden, Fuchs, Galbreath, Gilmer, Goodman, Mrs. Gordon, Hale, Hamilton, Hankamer, Hardeman, Hardin, Harp, Harper, Harrell of Bastrop, Harrell of Lamar, Harris, Hartzog, Heflin, Holland, Howard, Howington, Hull, Hunt, Isaacks, Johnson of Ellis, Johnson of Tarrant, Keith, Kennedy, Kern, Kerr, Kersey, Kinard, King, Langdon, Lehman, Leonard, Leyendecker, Little, Lock, Loggins, London, Mays, McAlister, McDaniel, McDonald, McFarland, McMurry, McNamara, Mohrmann, Monkhouse, Montgomery, Morris, Newell, Nicholson, Oliver, Olsen, Pace, Petsch, Pevehouse, Piner, Pope, Ragsdale, Reader of Erath, Reaves, Reed, Riviere, Roach, Roberts, Robinson, Russell, Schuenemann, Segrist, Shell, Skiles, Smith of Frio, Smith of Hopkins, Smith of Matagorda, Spencer, Stinson, Stoll, Talbert, Tarwater, Taylor, Tennant, Thornberry, Thornton, Turner, Vale, Vint, Voigt, Waggoner, Weldon, Wells, Westbrook, White, Wilson, Winfree, Wood, Worley and Wright.

On motion of Mr. Little the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.